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VETERANS' AFFAIRS

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FOREWORD

On December 13, 1976, the Select Committee on Missing Persons in Southeast Asia concluded its 15-month investigation and submitted its final report to the Congress.

More than 2,500 Americans failed to return from Indochina, and were not accounted for satisfactorily. Included were nearly 1,400 servicemen who were listed as POW or MIA and more than 1,100 listed as killed in action whose bodies were not recovered. Additionally, 41 American civilians were detained, missing, or killed and not recovered in Indochina.

The Final Report of the Select Committee presented an assessment of all available information on the missing and related problems at that time.

The accuracy and quality of the report have been invaluable as we calculate the possible nature and extent of an accounting, and the means by which an accounting might be achieved.

Copies of the report have long since been exhausted.

Public requests for information that can be found only in this report continues, therefore, the document has been reprinted.

Sonny Montgomery

G.V. (SONNY) MONTGOMERY
Chairman
Committee on Veterans' Affairs

Union Calendar No. 884

94th Congress, 2d Session - - - - - - - - House Rept. No. 94–1764

AMERICANS MISSING IN SOUTHEAST ASIA

FINAL REPORT

Together With

ADDITIONAL AND SEPARATE VIEWS

OF THE

SELECT COMMITTEE
ON MISSING PERSONS IN SOUTHEAST ASIA
UNITED STATES HOUSE OF REPRESENTATIVES

DECEMBER 13, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

(Under authority of the order of September 11, 1975)

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1976

SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

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The purpose of this Select Committee is to conduct a full and complete investigation and study of (1) the problem of United States servicemen still identified as missing in action, as well as those known dead whose bodies have not been recovered, as a result of military operations in North Vietnam, South Vietnam, Laos and Cambodia and the problem of United States civilians identified as missing or unaccounted for, as well as those known dead whose bodies have not been recovered in North Vietnam, South Vietnam, Laos, and Cambodia; (2) the need for additional international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians held captive or unwillingly detained in the aforementioned areas.

Union Calendar No. 884

94th Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 94–1764

AMERICANS MISSING IN SOUTHEAST ASIA

December 13, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Montgomery, from the Select Committee on Missing Persons in Southeast Asia submitted the following

REPORT

LETTER OF TRANSMITTAL

The Honorable CARL ALBERT,
The Speaker of the House,
The Capitol, Washington, D.C.

DEAR MR. SPEAKER: On behalf of the House Select Committee on Missing Persons in Southeast Asia, and pursuant to the mandate of House Resolution 335, I am transmitting herewith to the House of Representatives the Select Committee's final report, "Americans Missing in Southeast Asia." This report, together with substantial documentation, represents the Select Committee's assessment of all available information on the missing and related problems, such as those encountered by the families of the missing.

For your convenience and the convenience of our colleagues in the House of Representatives, I have attached to this letter a summary of our major conclusions and recommendations.

The Select Committee notes that its important study and investigation was completed by only 10 members and a non-partisan staff of 4 professional and 3 administrative members. It should be noted, too, that this committee has returned nearly one half of the $350,000.00 appropriated for its use, despite an unexpected extension of nearly four months duration.

It is evident that a small committee with a carefully selected staff constitutes a particularly effective and economical means of investigating areas which fall outside the purview of existing committees and which constitute significant problems requiring concerted congressional attention. I would like to acknowledge with deep gratitude the great dedication and talent of the committee members and its professional staff.

I also want to express my appreciation for the responsiveness of the liaison personnel from the Departments of Defense and State, and from the intelligence community. Their assistance proved invaluable to our efforts. The National League of Families, as well as many POW/MIA next of kin, were of great assistance in the committee's investigation. Finally, I wish to thank the United Nations High Commissioner for Refugees, the President of the Executive Committee of the International Red Cross, and their staffs, who provided important assistance and support to this committee.

Respectfully submitted,

GILLESPIE V. MONTGOMERY,
Chairman.

MAJOR CONCLUSIONS AND RECOMMENDATIONS

STATUS

Conclusions

That the results of the investigations and information gathered during its 15-month tenure have led this committee to the belief that no Americans are still being held alive as prisoners in Indochina, or elsewhere, as a result of the war in Indochina.

That current legislation, principally Title 37, U.S. Code, Sections 551–556, adequately protects the rights of the missing persons and their next of kin.

Recommendation

That the military secretaries should immediately begin individual case reviews in the manner prescribed by public law.

ACCOUNTING

Conclusions

That, because of the nature and circumstances in which many Americans were lost in combat in Indochina, a total accounting by the Indochinese Governments is not possible and should not be expected.

That a partial accounting by the Indochinese Governments is possible, and that the Department of Defense has the capability to assess, within reasonable limits, the nature and extent of any accounting that may be forthcoming.

That the most effective way in which an accounting may be obtained from former enemies is through direct governmental discussions with them.

Recommendations

That the Department of State promptly engage the governments of Indochina in direct discussions aimed at gaining the fullest possible accounting for missing Americans.

That the House of Representatives maintain a POW/MIA oversight capability in the International Relations Committee to monitor any direct talks that may take place with Indochinese Governments.

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CHAPTER I.—INTRODUCTION

The House Select Committee on Missing Persons in Southeast Asia has conducted a 15-month study and investigation of the problems associated with American servicemen and civilians who are still missing as a result of combat operations in Indochina and have not been accounted for by the governments of Indochina.

This study marks the first comprehensive effort of its kind. Other committees, special panels, and task forces have been convened after previous wars to study specific problems related to those wars. This select committee, uniquely, has been charged with a broader mission. This report articulates the many and diverse problems associated with the missing persons themselves, their dependents, and their Government.

The principal foci of this study are: determining whether any Americans are still being held against their will as prisoners of war as a result of the war in Indochina; gaining as full an accounting as possible from former enemies; and assessing the efforts of the Departments of State and Defense with respect to the problems associated with missing Americans.

In every war America has ever fought, some fighting men and civilians disappeared. Many were never seen again. Significant numbers of these were never accounted for by their own government or by their enemy. It was common practice to close those cases within a short period after cessation of hostilities. Combat operations and losses in Indochina produced a different result, and the problems are still with us.

Americans were sharply divided over combat in Vietnam, Laos, and Cambodia. Some fled the country to avoid serving in the Armed Forces; others went to jail. Some servicemen deserted the ranks en route to combat—the vast majority served dutifully, many heroically. Thousands were wounded. A few hundred were captured and later returned alive, having suffered unspeakable treatment at the hands of their captors. Some captives did not return, and we still await an explanation. Finally, several hundred Americans were lost in or over hostile territory, and the evidence at hand suggests that the fate of some of these missing can be provided by the Indochinese governments. That the numbers of missing are relatively small, when compared to other wars, provides little solace to grieving and frustrated families.

The refusal of the Communist Indochinese authorities to abide by the Geneva Convention Relative to the Treatment of Prisoners of War, coupled with the prolonged, divisive nature of American involvement in Indochina combat, escalated the problem of missing Americans to one of national concern. Private citizens and civic and veterans organizations, together with the National League of Families of American Prisoners and Missing in Southeast Asia, organized effective pressure in support of the release of American prisoners. With the return of the prisoners in 1973, many of these citizens were satisfied. Others were not. They demanded an accounting for those who did not return. In so doing, they sought more responsibility and accountability by their government than had ever been provided after previous wars. Unfortunately, their motto—"Only Hanoi knows"—bespoke the limits of the U.S. governmental capability to provide the accounting they sought.

Unlike American experience after previous wars, U.S. authorities now have no access to the battlefields in and over which American men became missing. Neither have they had access to relevant Communist records on America's missing. Only in South Vietnam, from 1973 to 1975, were limited battlefield and crash-site investigations possible. There has been no access to South Vietnam since April 30, 1975. This unfortunate combination of circumstances contributed to the mounting frustration of next of kin and established the need for this select committee.

The select committee is of the view that its most important tasks have been these:

—To identify and explain the crucial problems associated with the issue of missing Americans, particularly the question of whether any may still be living.

—To assure that the constitutional rights of the missing are fully protected.

—To help create the international and domestic milieu in which meaningful talks can be undertaken with those who can provide information on many of our missing.

—To assess the adequacy of the treatment of the POW/MIA issue by governmental agencies during and subsequent to the Vietnam war.

—To provide Congress with guidelines for handling future POW/MIA situations.

It is important to note that the select committee was enjoined to study, investigate, and report to the House of Representatives on the problem of missing Americans. Final resolution of this problem can only be accomplished by the administration, with the cooperation of the Indochinese governments.

The history of similar problems, such as that experienced by the French in Indochina, suggests that an expeditious resolution of the problem is desirable, although this will likely require considerable debate. The nature and extent of the final results cannot be predicted with confidence. It is certain that a large number of individual cases will never be accounted for. That, unfortunately, is a natural phenomenon of fierce combat. It is equally certain, however, that the governments of Indochina already possess detailed information on many missing individuals and incidents in which they were lost. Further, a large but unknown number of grave sites in which missing Americans are buried have been located and marked by the Vietnamese. Ultimately, assuming that talks are successful, those remains can be repatriated.

One major stumbling block has prevented closing this chapter in our national history—the lack of direct discussions between the American government and those of our former adversaries. The United States wishes and deserves an accounting for the missing. The Indochinese demand reconstruction of their war-torn countries. The United States insists on an accounting as a precondition to normal relations between our countries. The Indochinese, particularly the Vietnamese, state that reconstruction aid, a change in the Administration's "hostile attitude", and a significant effort to "heal the wounds of war" must precede their accounting for our missing.

The select committee has carried out its mandate in three separate and distinct ways:

> First, a comprehensive series of hearings provided the foundation for the committee's efforts. Testimony was heard from nearly 50 selected witnesses who were in a position to provide important background information necessary for an understanding of the problems involved. In addition, more than 20 executive sessions were conducted to evaluate progress, to plan future activities, and to hold discussions on sensitive matters with persons who could not otherwise appear before the committee.
>
> Second, the select committee initiated high-level international discussions, holding direct talks with key officials of the Democratic Republic of Vietnam, the Provisional Revolutionary Government (of then two Vietnams) and the Lao Peoples' Democratic Republic. Extensive efforts were made, unsuccessfully, to communicate with Cambodian leaders. More than 80 communications were exchanged with senior Indochinese officials. In addition, meetings were held at home and abroad with scores of other international dignitaries and officials having concern with POW/MIA matters.
>
> Third, at the members' direction, the select committee staff conducted independent investigations tracking down numerous leads and sources. Some investigatory tracks were uncovered during testimony. Most were provided by the National League of Families of American Prisoners and Missing in Southeast Asia. Others were developed by the staff. These efforts resulted in personal communications by Members or the staff with more than 150 individuals who might have been expected to cast light on the shadowy problems being studied. The Committee initiated over 100 requests to the Department of Defense for specific information, including some voluminous studies. It was never intended that the Select Committee would review every case folder. Clearly, the Committee has no legal authority to adjudicate MIA status; but over 200 individual case files were analyzed by the Committee and its staff in order to appraise the many aspects of the MIA problem.

The focus of all these efforts was to determine the likelihood that any missing Americans were still being held as POW's in Indochina. Collaterally, the select committee endeavored to calculate the possible nature and extent of the hoped-for accounting and the means by which an accounting might be achieved.

CHAPTER II.—AN OVERVIEW OF COMMITTEE ACTIVITIES

On September 11, 1975, the House of Representatives directed the select committee to study, investigate, and report on the problems of Americans still unaccounted for as a result of hostilities in Indochina. The committee immediately initiated its activities on three distinct levels: hearings, international talks, and investigations. Top priority was placed on seeking evidence to determine whether any live Americans were still being held captive. Simultaneously, the committee sought to identify the problems that had prevented an accounting to date and to take actions that might gain an accounting. The committee also had an obligation to assist in the repatriation of those American citizens and dependents unable to leave South Vietnam after the fall of Saigon.

EVIDENCE OF LIVE AMERICANS

The select committee launched and maintained an intensive effort to acquire information on the possibility of live American prisoners in Southeast Asia. Witnesses were called who might be expected to know whether any prisoners were still being held. Within one week of the formation of the select committee, Ambassador George Bush, then Special Representative of the United States to the People's Republic of China, addressed this very question before the members. Subsequent testimony was received from governmental officials with long experience on POW matters who also had access to all national intelligence on the subject. Present and former officials of the National League of Families, as well as persons recommended by them, were called. Former POW's described the character of their captors and the brutal circumstances of their captivity, as well as the methods by which they developed and safeguarded crucial information on captured Americans. Testimony was heard from the national intelligence community, as well as from private citizens and officials with a wide range of experience in Indochina. MIA wives and parents were called, as were witnesses with current information, such as American civilians released from Vietnam during the lifetime of the committee. Each witness with possible information on missing Americans was intensively questioned both as to the facts they could present and to their opinions on whether any missing American was alive. Many of those testifying produced sources and leads for further investigation. Several witnesses were called upon to provide additional information in response to further committee inquiry. The open testimony of these witnesses is published in five volumes of hearings before the select committee. Chapter III of this report delineates significant portions of this testimony as it pertains to the possibility of American prisoners.

Committee investigations proceeded apace with its hearings. In addition to following up on leads from the hearings, the committee initiated contacts with over 150 persons with expertise on the subject of missing Americans. Past efforts of the Department of State and Defense were reviewed and analyzed. Members of Congress and individual citizens and groups passed on information for investigation and analysis. The National League of Families provided many leads and several tracks for investigation. Committee members spoke with POW/MIA family members both in Washington, D.C. and across the country. Congressmen Jim Lloyd (D–Calif.), Benjamin A. Gilman (R–N.Y.), and Tennyson Guyer (R–Ohio), contributed greatly to this effort, addressing the annual convention of the National League of Families, and holding numerous speaking egagements in several States. Staff members contacted additional sources and analyzed data germane to the inquiry. The national intelligence community was called upon to provide information and to explain certain reports. Members and staff visited the Defense Intelligence Agency (DIA), which had become the focal point for national intelligence on Americans missing in Southeast Asia. The committee reviewed individual cases, examined returned POW debriefs, and sought to ascertain whether information classified to protect sources and methods was extracted in substance and placed in the services casualty files which the next-of-kin could see. Members and staff also visited the Joint Casualty Resolution Center (JCRC), a unique organization specializing in grave and crash site investigations and recovery of remains. The committee made specific inquiries into both POW intelligence information and communication of information between the JCRC and the DIA. Over 200 individual case files were reviewed for evidence that the missing man might be alive. Finally, the committee made every effort to correlate and assess the information received from its many public and private sources. Highlights of these investigations are covered in chapter IV of the report.

International efforts to ascertain whether Americans were still being held involved discussions with the Vietnamese Premier, Vice Foreign Minister, Assistant to the Foreign Minister, Director of North American Affairs, Ambassador to France, and Observer to the United Nations. Discussions were held with the Pathet Lao Representative in Vientiane, the Chief of Cabinet of the Lao Foreign Ministry, the Lao Director of Political Affairs, and the Lao Delegation to the United Nations. Attempts to contact Cambodian representatives in Peking (twice), Paris (twice) and Hanoi (once), and to correspond with Phnom Penh failed to produce any response. The committee did learn, however, of three high-level contacts with the Cambodian officials in which statements were made on missing Americans.

Further meetings were held with officials of the International Committee of the Red Cross, the United Nations High Commissioner for Refugees and with foreign representatives to the Diplomatic Conference on Humanitarian Law. In addition, meetings were held with numerous other foreign and international figures in Paris, Geneva, New York and Washington.

A key question in all these meetings, as described later in this chapter, concerned whether there was any information on live Americans being held as a result of the war in Indochina. Before describing these efforts more fully, however, it is necessary to consider committee efforts to obtain any information whatsoever on missing Americans, that is, the committee efforts to seek an accounting.

SEEKING AN ACCOUNTING

The select committee recognized early in its investigation that an accounting must be negotiated. Looking at the French experience, it was apparent that negotiations could drag on for years, or even decades. Thus, the committee found it necessary to divide its pursuit of an accounting into two distinct categories. First, the problems associated with an accounting had to be identified: What is an accounting? What constitutes an acceptable accounting? How much of an accounting can Americans reasonably expect? Second, efforts had to be made to create the working relationships necessary for negotiations.

The committee's inquiry into the technical aspects of an accounting began in November 1975 with the testimony of Maj. Gen. Robert C. Kingston, the first commander of the Joint Casualty Resolution Center (JCRC). Using slides and a short film, General Kingston explained the origins, structure and operations of the JCRC, as well as methods used by the Central Identification Laboratory (CIL) to identify recovered remains. He described some of the difficulties of an accounting, including the facts that no remains were recovered from extensive JCRC search operations at sea, and that climatic conditions in Southeast Asia cause rapid deterioration of remains. Further investigation of JCRC activities was made by a staff visit on location at Samae San, Thailand. Results of studies undertaken by JCRC personnel were made available to the staff, and additional requirements were levied on the JCRC to develop more refined data and statistical projections.[1]

In December 1975, after receiving the remains of three American servicemen in Hanoi, the select committee took the opportunity to visit the JCRC to learn firsthand its capabilities and limitations. The members were thoroughly briefed by the JCRC commander and staff. They also visited the Central Identification Laboratory, examining the remains of the three flyers they had received in Hanoi, two ash remains which had just been received from China, and those yet unidentified partial remains that had been obtained in Vietnam.

Followup questioning of JCRC personnel occurred throughout 1976, highlighted by staff interrogation of the JCRC commander on his visits to Washington in March, June and July 1976.[2] In addition, the staff director conferred with JCRC and Central Identification Laboratory personnel in November 1976 at their new locations in Hawaii in order to refine certain statistical data and projections related to the committee's report.[3]

Finally, the staff conducted independent studies of other germane data. These included the analysis of the Bio-Technology reports on Southeast Asian aircraft survival experiences, and the Naval Safety Center reports on fatal peacetime accidents on Navy combat-type aircraft.[4] The staff also analyzed a large sample of individual cases with the view of predicting, within reason, how many cases might be resolved by former enemies. Also considered was the effect that time, weather, and circumstances have had on the likelihood of an accounting in each of the geographic areas in which the war was fought.

---

[1] Select Committee Hearings, part 2, pp. 76–77; and chapter 8 of this Report, "An Accounting".

[2] Col. John P. Vollmer, U.S. Army, was the JCRC Commander until June 1976, when he was succeeded by Col. William H. Hubbel, U.S. Air Force.

[3] The JCRC was relocated to Barbers Point and the CIL to Camp Kalama in mid-1976.

[4] Select Committee Hearings, parts 2 and 3; and Naval Safety Center, "Fatal Peacetime Accidents of Navy Combat Type Aircraft", Ser. 395, February 5, 1976.

See chapter 5 of this report for further analysis of the Bio-Technology Reports and chapter 8 for the Naval Safety Center Reports.

The committee recognized that an accurate forecast cannot be made of the number of cases in which an acceptable accounting may ultimately be realized or the quality of information or remains that might be obtained. Only Hanoi—and Vientiane and Phnom Penh—can provide that information. It is essential, however, to delineate the problems inherent in an accounting. Only in this way will it be possible to keep in focus the negotiating price and the results to be achieved. Chapter 9 deals extensively with the technical aspects of accounting.

Efforts by the select committee to gain information on missing Americans took several forms. The committee sought to convey to the Indochinese leadership, both directly and through the good offices of international agencies and friendly third parties, the humanitarian implications of an accounting and the greater likelihood of normalizing relations if an accounting were provided.

The committee also pressed the administration to open talks with the Vietnamese. Within the Congress, members of the select committee supported certain legislation that might have induced the Vietnamese to provide some measure of an accounting.

Finally, the committee recognized that while its limited charter had been accomplished and its limited tenure completed, there was need for continuing attention to the POW/MIA matter. For this reason the committee recommends that an effective, operational, oversight capability be assured within the House International Relations Committee.

The select committee's efforts to gain information on missing Americans are described below, as those efforts apply to each of the countries that might provide such information.

PEOPLE'S REPUBLIC OF CHINA

In September 1976, Ambassador George Bush, then Chief of the United States Liaison Office to the People's Republic of China, discussed with the committee the possibility of MIA information emanating from China. Mr. Bush indicated strong doubts that China held any live Americans and he believed that the Chinese would not condone movement by the Vietnamese of POW's into China. Ambassador Bush was of the opinion that such a movement of POW's could not occur without the Chinese knowing and they would certainly not approve of it.[5] Congressman John Joseph Moakley (D-Mass.) contributed greatly to the many efforts to obtain an accounting from the Chinese by expressing the concern of family members at this and subsequent meetings, including that in Paris in December.

Anticipating the separate visits to Peking planned for November and December, 1975 by Secretary Kissinger and President Ford, the committee requested that certain questions on POW's/MIA's be asked of the Chinese during those visits. The committee was assured that the matter would be included on the agenda and would receive the highest level attention.

On December 4, 1975, while in Peking, President Ford received information from Vice-Premier Teng Hsiao-ping on six incidents involving U.S. aircraft lost in or near the PRC between 1952 and 1968. The Chinese offered to return the ash remains of two American servicemen killed in the Vietnam war and provided circumstantial information or a statement that the PRC has no further information on eight other American servicemen from the Vietnam war era.[6]

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[5] Select Committee Hearings, part 2, p. 91; and chapter 3 of this report.

VIETNAM

International efforts to ascertain whether Americans might still be held prisoner in Vietnam also began shortly after formation of the select committee. Initial efforts to contact the Vietnamese government were made on October 10, 1975, in correspondence to Pham Van Dong asking that Vietnamese officials meet with the committee. Representative Richard L. Ottinger (D–N.Y.), who had corresponded amicably with Premier Pham Van Dong on an earlier occasion, reinforced the committee recommendation by also writing the Premier, advising him of the membership of the newly formed select committee and urging that the Vietnamese receive a delegation of Congressmen.[7]

In his capacity as a member of the select committee, Congressman Tom Harkin (D-Iowa) visited the United Nations in New York on October 8, 1975. He spoke with Ambassador Dinh Ba Thi, the permanent Provisional Revolutionary Government observer at the U.N. Among the issues discussed, Congressman Harkin expressed the committee's concern for information on American MIA's and POW's. The function of the select committee was also discussed at the New York meeting. Ambassador Thi expressed his opinion that the MIA issue was unimportant both to U.S. businessmen and U.N. representatives whom the Vietnamese had approached. Not wanting to confine possible discussions to the MIA question, the Vietnamese indicated an interest in aid, trade, and diplomatic recognition.

Representative Harkin suggested that the select committee could meet with Vietnamese officials in Paris or any other place, to consider matters of mutual interest, including the MIA issue.

The authority of the select committee was then considered.[8] The Vietnamese expressed the view that the committee could not be effective if it was an instrument of the Secretary of State. Representative Harkin stressed the committee's independence and willingness to listen to issues other than the MIA, although he stressed the committee's limited authority. Thus, the stage was set at this early meeting for the subsequent meetings in Paris and Hanoi.

Meeting With the Secretary of State

On November 14, 1975, all members of the select committee met with the Secretary of State. The Secretary voiced no objection to the committee's proposed discussions with the Vietnamese; he suggested that it would be more effective to discuss the MIA issue in the context of normalization rather than in a framework of the Paris accords, which the North Vietnamese had violated. Blackmail, he said, would be inappropriate. He noted, however, that friendly and reciprocal gestures might be effective in creating a climate in which an accounting could take place.[9]

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[6] Department of Defense News Release "PRC Provides Information on U.S. Casualties", December 5, 1975.

[7] Correspondence of the select committee and executive session, October 8, 1975.

[8] The select committee is prohibited from negotiating by the Logan Act.

Meeting With the DRV

In view of the North Vietnamese insistence that the MIA issue be discussed only in conjunction with a wider range of issues, Chairman Montgomery informed the DRV Embassy in Paris that Congressmen from several committees could accompany the select committee.

The North Vietnamese indicated their willingness to meet with the congressional party in late November, then deferred the meetings until early December when Ambassador Vo Van Sung would be present.

On December 1, in an executive session, the committee considered the schedule and agenda of the Paris trip. Attention was also paid to the Bingham amendment to the Foreign Assistance bill which provided for lifting the trade embargo on Vietnam. Representative Benjamin Gilman (R-N.Y.) of the select committee, had introduced a second amendment which would require the Vietnamese to make a substantial accounting for missing Americans within 180 days from the lifting of the trade embargo. Members agreed that support of the Bingham-Gilman amendments would be at their individual discretion. During this meeting, the committee received a cable from the Vietnamese suggesting a meeting in Paris on December 6.

On December 6, 1975, members of the select committee, accompanied by four Congressmen from other committees, met with North Vietnamese Ambassador Vo Van Sung and PRG Chargé d'Affaires Huynh Thanh.[10] In that meeting at the DRV Embassy in Paris, both groups alluded to a bridge of understanding that might be built if each side reciprocated to gestures made by the other. The Vietnamese committed themselves to constructing the first plank of the bridge by releasing the remains of three American pilots who had been shot down over North Vietnam.[11] The DRV Ambassador averred that two problems remained in implementing the Paris Agreement:

(1) U.S. contribution to healing the wounds of war, and
(2) Vietnamese provision of information on the American dead.

Ambassador Sung stated that Vietnam has an organized research program for U.S. pilots killed in action and that all the POW's had been released.

Further discussion centered on international trade and aid, with the Congressmen citing the improbability of the latter. The American delegation traveled to Geneva, Switzerland the following day where they met with officials of the International Red Cross in order to solicit assistance in obtaining an accounting. A brief courtesy call was paid on the United Nations High Commissioner for Refugees who was then preparing to depart for Hanoi.[12]

On December 17, members of the select committee reported to President Ford the results of the Paris talks and discussed the meeting they had scheduled in Hanoi 4 days later. The President urged the committee, while on its forthcoming trip, to ascertain the list of quid pro quos desired by the Vietnamese. He also provided a letter to Chairman Montgomery setting forth his views on reciprocity, stressing that the United States looked to the future and not to the past, in its relations with the new regimes of Indochina.[13]

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[9] Select Committee Hearings, part 2, pp. 92–93.

[10] The other Members included Congressmen Jonathan B. Bingham (D-N.Y.), Robert Duncan (D-Oreg.), Dante B. Fascell (D-Fla.), and Kenneth L. Holland (D-S.C.).

[11] The remains had been promised earlier in response to Senator Kennedy's request, but the Vietnamese reneged in August 1975 when the United States vetoed Vietnamese membership in the United Nations.

[12] Hearings, Vol. 2, p. 97.
His assistance later greatly expedited the Committee delegation's trip to Southeast Asia.

Visit to Hanoi

Chairman Montgomery and Congressmen Ottinger, McCloskey, and Gilman of the select committee traveled to Southeast Asia from December 18 to December 24, 1975. The remains of three American pilots were turned over to the committee during a solemn ceremony at Hanoi's Gia Lam Airport.[14] Several meetings were held with DRV authorities, including Prime Minister Pham Van Dong and Vice Foreign Minister Phan Hien. Both Vietnamese leaders told the members that all Americans captured during the war were returned to the United States just after the Paris agreement. The Congressmen articulated their interest in documented evidence on the missing, grave and crash site investigations, and recovering the remains of the two Marines killed at the end of the war. The Vietnamese replied that if the local people cannot find crash sites, no one can. They added that information would be forthcoming on the two Marines. They then expressed their perception of American commitments for reconstruction aid in accordance with their interpretation of article 21 of the Paris agreement, reinforcing their argument by revealing the contents of a February 1, 1973, letter from President Nixon to Premier Pham Van Dong. The letter referred to a preliminary study identifying reconstruction aid of a magnitude of $3.25 billion for North Vietnam. As they had done earlier in Paris, the select committee members made it clear that grant aid for Vietnam appeared to be out of the question.

Meeting with President Ford

Select committee members met privately with President Ford on January 26, 1976, to report on their discussions in Hanoi. The possibility of an accounting was discussed, as were various options which the administration might consider in reciprocating the gestures already made by the Vietnamese.[15]

Meeting with Secretary Kissinger

On March 12, 1976, the entire committee met again with Secretary of State Henry Kissinger. The Secretary discussed the negotiating process of early 1973, and explained in detail the intent and nature of the letter President Nixon had written to Premier Pham Van Dong on February 1, 1973. That letter, which figures so prominently in any assessment of negotiating commitments, articulated the agreement that a Joint Economic Commission would be formed to consider reconstruction aid to North Vietnam in the spirit of article 21 of the Paris Peace Agreement.[16]

According to the Secretary, neither the Joint Economic Commission proposal nor the Nixon correspondence was an agreement as such, but rather was tentative in nature and dependent on both strict adherence to the terms of the Paris Peace Agreement and on American constitutional processes. The latter, he said, translated to approval by the Congress of any proposed programs.

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[13] Hearings, Part 2, p. 73.

[14] The committee members received the remains of Captain Ronald Dwight Perry, Major Crosley James Fitton, Lieutenant Commander James Taylor, Jr.

[15] For a more detailed report, see select committee hearings, part 3, p. 97.

[16] Undersecretary Philip Habib was the first ranking official of the present administration to admit the obvious link between article 21 and the Joint Economic Commission when he testified before the select committee on July 21, 1976.

See select committee hearings, part 5.

The most significant development in the March 12 meeting was the select committee's unanimous recommendation to Secretary Kissinger that the Department of State begin direct talks with the Vietnamese in an effort to reconcile differences impeding resolution of the POW/MIA issue. Dr. Kissinger assured the members that he would discuss the committee's recommendation, and would report back to the select committee the following week.

The recommendation was approved and, on March 26, 1976, the Department of State initiated a communication to DRV Foreign Minister Nguyen Duy Trinh, suggesting that preliminary talks might be undertaken.[17]

It should be pointed out that intensive efforts by the select committee, both directly and through the good offices of impartial international agencies, to arrange for further direct meetings with the DRV in Hanoi or Saigon in the period of April–June 1976 had politely been rebuffed by the DRV, apparently due to their April 25 elections.

International Diplomatic Conference

In March 1976, Chairman Montgomery was designated Congressional Adviser to the International Diplomatic Conference on Humanitarian Law in Armed Conflict. Attending the opening sessions of the Conference in Geneva, Switzerland in April 1976, Chairman Montgomery conferred with numerous international officials, including DRV Ambassador Nguyen van Luu. Detailed conversations were held privately with other diplomats and emissaries of international agencies headquartered in Geneva. During these conversations, the Chairman received no indication from any quarter that any POW's or MIA's were being held as a result of the war in Vietnam. International officials with regular access to both North and South Vietnam, and who have close contacts with the Vietnamese leadership, stated they had no evidence whatsoever of American POW's.

Of particular interest was the work dealing with a proposed article to be included in the Geneva Convention on POW's.

If ratified, that article will provide for obligatory reporting of information on MIA's, an area previously ignored in all conventions and protocols except the Paris Peace Accords.

Amendment to Bretton Woods Agreement

On July 29, 1976, Congressman Henry B. Gonzalez (D-Tex.) introduced HR 13955, to provide for amendments to the Bretton Woods Agreement. The bill stated that the President shall instruct the U.S. Executive Director of the International Monetary Fund to vote against any loan or other utilization of the IMF to the benefit of Laos, Cambodia, or Vietnam unless these countries are providing the United States with a full accounting for American military and civilian personnel who remain unaccounted for in those countries. Although the amendment was defeated in the House, its submission by Representative Gonzalez was another example of the importance committee members attach to this issue.

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[17] At the time of this printing 6 publicized diplomatic notes on this subject had been exchanged. They are printed in the Select Committee Hearings, part 5.

LAOS

One of the most enigmatic aspects of the POW/MIA issue is the large number of MIA losses in Laos and the incredibly small number of prisoners that returned from that country. It is extremely difficult, if not impossible in many cases, for next-of-kin to accept the unexplained disappearance of so many fine Americans. Extensive rumors have originated in Laos, mainly from opportunists and profiteers, suggesting that scores of live Americans are still being held in various secret places in that rugged country.

Several committee members had visited Laos in other capacities before the select committee was formed. Chairman Montgomery and Congressman Gilman had flown over much of the country and both had met with the former head of the Royal Government, Prince Souvanna Phouma, when he was still in authority in Vientiane. Mr. Gilman had also met with General Vang Pao, the Hmuong tribal leader who led the Royal Lao field forces against the Pathet Lao. Earlier association with Pathet Lao officials, however, had not provided any detailed information related to the POW/MIA situation.

In November 1975, Dr. Henry J. Kenny of the select committee staff traveled to Vientiane to spend several days gathering information on POW/MIA matters and to discuss with senior Lao officials the interests of the select committee. The U.S. Embassy in Vientiane was helpful in arranging his meeting with Mr. Sone Khamvanevongsa, representative of the Lao Patriotic Front; Dr. Chansamone Vongsaphay, Director of Political Affairs in the Foreign Ministry; and Mr. Soubanh Srithirath, Chief of Cabinet of the Foreign Ministry. Dr. Kenny's visit established excellent contacts with foreign officials and facilitated the December visit by committee members.[18]

Dr. Kenny furnished POW/MIA statistics to the Lao officials, and asked for information on the missing men. The officials stated that all American POW's had been returned. The Chief of Cabinet, Soubanh Srithirath, also emphasized that reconstruction aid was a duty and obligation of the United States.

Select committee visit

Chairman Montgomery accompanied by Congressman Ottinger, McCloskey and Gilman met Pathet Lao officials in Vientiane on December 23, 1975, after their earlier meetings with DRV leaders in Hanoi. Initial resistance to the meeting, experienced by U.S. Embassy officials in Vientiane, was overcome through the insistence of the Chairman and the very effective assistance rendered by aides to the United Nations High Commissioner for Refugees. Mr. Zia Rizvi of the Geneva Headquarters of the UNHCR, who had accompanied committee members to Hanoi and Vientiane, was particularly helpful in arranging communications with the Pathet Lao.

Committee members discussed the POW/MIA issue with Chief of Cabinet Soubanh Srithirath and provided him with five individual cases of Americans known to have been in Lao hands but who never returned and have not been accounted for. In addition, the "Spectre 17" case, involving 11 unaccounted for MIA's, was given to the Chief of Cabinet.[19] He reaffirmed that all American POW's had already been liberated, adding that as the Lao search for their own dead and missing, they will also search for missing Americans.

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[18] Select Committee Hearings, part 2, pp. 75–86.

Interplast

In January 1976, the select committee was made aware of the humanitarian services offered by the International Plastics Society, Interplast. The organization is comprised of plastic and reconstructive surgeons who donate two months of their time each year on an individual basis to provide surgical repairs to the maimed in countries where that skill is not otherwise available.

Dr. Mark Gorney and Dr. Richard Dakin of Interplast met with the select committee on January 23, 1976, and stated the willingness of their members to travel to Vietnam and Laos where their medical teams would help train indigenous doctors. At the same time, they would also help repair deformities caused by the war or resulting from other causes.

The committee arranged for a representative of Interplast to meet with the New York staff of the United Nations High Commissioner for Refugees to explain their offer. Thereafter, the Interplast offer was forwarded to Vientiane and Hanoi with considerable assistance from the UNHCR staff personnel. To date, the Vietnamese and Laotians have not indicated approval of the project, but it remains a bona fide offer which, in the committee's view, would enhance the chances for normalization.

The Lao in New York

The committee's search for meaningful answers from the Lao was continued through the efforts of Congressman McCloskey. Meetings were held between the Congressman and Lao representatives in New York, and several MIA case files were given to the Lao by Mr. McCloskey.[20] These were cases not previously given to the Lao. In addition, the committee continued to conduct interviews and to exchange correspondence with persons familiar with the policy and practices of the Pathet Lao, including representatives of the Mennonite Central Committee, the American Friends Services Committee, and various religious and charitable groups. A further attempt was made, unsuccessfully, to meet Lao Foreign Ministry officials visiting the United Nations in October 1976.

CAMBODIA

The Khmer Rouge regime in Cambodia has been particularly unresponsive to the committee's inquiries. The trips to China by Secretary Kissinger and President Ford in November and December 1975 appeared to afford an opportunity for preliminary talks with the Cambodians, and it was hoped that Chinese intercession might facilitate meetings between Khmer Rouge officials and the select committee. Despite some indications that the Chinese would be pleased to see relations improved between the Cambodians and Americans, no progress has yet occurred.

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[19] See Chapter 4, "Committee Investigations", for Spectre 17 details; and Select Committee Hearings, part 5.

[20] On August 30, 1976, Chairman Montgomery and Congressmen Ottinger, Lloyd, Harkin, McCloskey, and Gilman met in New York with Mr. Khamthong Boulom and Mr. Theo Mo Bounnak, First Secretaries of the Lao Peoples' Democratic Republic to the United Nations.

Several direct attempts were made by the select committee to initiate talks with Cambodian leaders. While meeting with DRV and PRG officials in Paris in December 1975, telephone calls were made to the Cambodian office but the calls were not accepted. Later that month in Hanoi, the committee tried to telephone the Cambodian Embassy—to no avail. Khmer Rouge officials in Vientiane, Laos have not attended any functions, official or social, to which committee members or U.S. Embassy staff personnel have been invited.

Congresswoman Patricia Schroeder (D-Colo.) made an official trip to Peking, China in January 1976, and while there attempted on the select committee's behalf to deliver a message in person to the Cambodian Embassy. Khmer Rouge officials refused to see her. In April 1976, Congressman Lester Wolff (D-N.Y.) visited Peking. He carried with him a letter from Chairman Montgomery to Tol Sat, the Prime Minister of Cambodia, suggesting that talks with the select committee could be undertaken. The letter also contained an appendix with the names of the 24 Americans unaccounted for in Cambodia. The Cambodian Embassy appeared to be empty when Mr. Wolff arrived, although he heard voices behind locked doors in the anteroom. After a few minutes, Congressman Wolff placed the letter on a small table in the vestibule and departed.

Several other attempts were made to communicate with the Khmer Rouge by cable and letter. Overseas telegrams to Cambodian ambassadors in Paris, Hanoi and Peking have met with no response. In one case, the Paris cable office advised that the Ambassador had moved from his hotel without leaving a forwarding address, suggesting that the Cambodian representation in France is on a "shoe string" basis at best.

Finally, the committee forwarded a letter through Department of State channels to Peking, China, for delivery to Prince Norodom Sihanouk who was then residing in Peking. The letter asked for his intercession on behalf of the select committee to arrange direct talks on the POW/MIA issue. There has been no response.

Although committee attempts to communicate directly with the Cambodian government were unsuccessful, the committee did seek to learn whether Cambodian officials had any information on missing Americans. In December 1975, for example, the committee learned that a senior official of the U.S. Mission to the United Nations met with Thiounn Prasith, a senior Cambodian official at the United Nations, to request information and to present complete lists of Americans missing in Cambodia. The Cambodian representative agreed to convey the list to his government. Approximately a week later, he responded by stating his government had no information on any American military or civilian personnel whose names had been provided.[21]

The select committee received additional reports in October 1976, through friendly Asian governments, that Cambodian governmental spokesmen, at the highest level, had just categorically denied that any Americans were being held or otherwise living in Cambodia.[22]

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[21] Information provided the select committee by Frank A. Sieverts, Deputy Coordinator for Humanitarian Affairs, Department of State.

[22] These reports were received through confidential sources.

The select committee efforts to obtain an accounting and seek information on the possibility of live Americans resulted in an exchange of more than 80 communications with the leadership of the governments of China, Vietnam and Laos. The results of those contacts, as well as the information received concerning Cambodia, show a categorical denial at the highest levels of government that any live American prisoners are being held as a result of the war in Vietnam. The committee does not accept these denials as prima facie evidence. Exhaustive examination of relevant information proceeded on the levels of hearings, investigations, and analyses. Highlights of these efforts are in chapters 3, 4, and 5 respectively. The fact that the leaders of Southeast Asian Communist states deny holding any American POW's does not augur well, however, for the fate of those once in their hands.

To date, there has been no accounting by Indochinese governments for any substantial number of missing Americans. Yet the select committee's efforts have been marked wth considerable success.

> The Vietnamese publicly admitted that they have created an agency to search for information and graves of missing Americans.
>
> The Secretary of State, as a direct result of the committee's urging, formally offered to begin talks with the Vietnamese—a necessary precursor to an accounting.
>
> Several diplomatic notes have been exchanged between the United States and Socialist Republic of Vietnam Governments and the first discussion has been held.
>
> With but few exceptions, the American civilians stranded in South Vietnam in 1975 have recently been permitted to depart.

With several factors contributing to the exit from South Vietnam of those American citizens who were stranded there in 1975 and who wished to leave, the role of the select committee in facilitating their departure deserves mention.

American Citizens in Vietnam

During its 15 months' tenure, the House Select Committee on Missing Persons in Southeast Asia devoted considerable time and effort to secure the release of American citizens remaining in South Vietnam after the fall of Saigon. The committee recognized an obligation to do everything possible to assist these Americans.

In his October 1975 meeting in New York with Ambassador Dinh Ba Thi, the PRG Observer to the United Nations, Hon. Tom Harkin (D-Iowa) of the select committee asked about the nine American civilians captured in March 1975 at Ban Me Thuot in South Vietnam. Ambassador Thi responded:

> That is no problem. I will check into that next week, and I can assure you they are being well taken care of.[23]

Thi returned to Vietnam the following week. On October 30, just two weeks later, the nine Americans were released from Hanoi.

In the December 1975 meetings in Paris with DRV Ambassador Vo Van Sung, Chairman Montgomery asked about the civilians who were stranded in Saigon when the Thieu Government fell, and who appeared anxious to leave the country. The Ambassador stated:

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[23] Hon. Tom Harkin (D-Iowa), in a report to an executive session of the select committee on October 9, 1975.

> We have no intention of keeping anyone. If we find anyone in Vietnam who has been stranded, according to the press, we will create conditions for their return.[24]

He said that he heard there were 50 Americans living in the South, adding, "We can't confirm the exact number. We have no intention of detaining them." [25]

On December 21 and December 22, 1975, committee members Richard L. Ottinger (D.-N.Y.), Paul N. McCloskey, Jr. (R.-Calif.), Benjamin A. Gilman (R.-N.Y.), and Gillespie V. Montgomery (D.-Miss.), Chairman of the House Select Committee on Missing Persons in Southeast Asia, held meetings in Hanoi with officials of the Democratic Republic of Vietnam. The U.S. representatives stressed the importance of the departure from South Vietnam of those Americans desiring to leave.

Mr. Phan Hien, Deputy Foreign Minister of the Democratic Republic of Vietnam responded to the Congressmen by saying: "Our policy is that if anyone wants to go from South Vietnam, they can." Although it took several months for Vietnam to implement this policy, the promise to the select committee constituted a significant breakthrough in obtaining the release of these Americans.

Also, during the Hanoi meetings, Hon. Ottinger inquired about Mr. Leonard Judson who resided at a Red Cross building in Saigon and reportedly was going blind. Mr. Hien promised that he would look into this matter.[26] Mr. Judson departed South Vietnam for the United States a few months later.

An important element in the discussions in Hanoi, which contributed significantly to the departure of the Americans from South Vietnam, was the mutually expressed hope for improved Vietnamese-American relations.

Between the December 1975 meetings in Hanoi and the departure of 50 American citizens and dependents from Saigon in August 1976, the select committee continued to make every effort on behalf of those still in South Vietnam. Discussions were held with several American citizens recently returned from Vietnam, as well as with private citizens and organizations with continuing interests in Vietnam.

In a January 1976 meeting with the operations director of the Executive Board of the International Committee of the Red Cross (ICRC), committee members learned first-hand the ways in which the Red Cross could assist. As the ICRC maintained lists of people known to be in South Vietnam, and since the committee was called upon for assistance by scores of congressional offices and relatives of the stranded Americans, the select committee was able to act as a useful intermediary in obtaining ICRC assistance.[27]

During an April 1976 trip to Geneva as Congressional Advisor to the International Diplomatic Conference on Humanitarian Law in Armed Conflict, Chairman Montgomery discussed the situation with foreign delegates as well as officials of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross.[28] The chairman asked these officials to use their good offices to assist in the expeditious repatriation of American citizens. He later publicly expressed his disappointment, both in Geneva and on return to Washington, D.C., that more Americans were not leaving South Vietnam. On May 2, for example, he announced:

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[24] Memorandum for the Record. Subject: Meeting in Paris, dated December 6, 1975.

[25] *Ibid.*

[26] Memorandum for the Record, Subject: Afternoon Meeting December 21, 1975, in Hanoi.

[27] Memorandum for the Record. Subject: January 22, 1976 meeting with Mr. Jean Pierre Hocke, and subsequent congressional requests.

> I have just conveyed to the Premier of North Vietnam my disappointment and deep concern over the plight of those American citizens who were trapped in the fall of South Vietnam a year ago and have been unable to leave.
>
> When the select committee was in Paris and Hanoi last December, we were led to believe that no obstacles would be placed in the path of those who wished to depart. To date, only three of our citizens have been permitted to come out. At that rate it will take 10 years for them all to come home.
>
> In Geneva I had the opportunity to speak with several officials connected with humanitarian organizations, and learned that other foreign nations in Saigon have been coming out routinely. The same should apply to our people, whose presence there is innocent and accidental.
>
> Since my return to the United States, I learned from other sources that some of our citizens are in poor health and most are in need of financial assistance. Unfortunately, it is very difficult for their relatives to cable money to them, thus making the problem worse.
>
> We had straightforward talks with the Vietnamese leaders last December and have communicated with them several times since. I must repeat, however, that the select committee is disappointed with the lack of action in releasing American citizens, and we hope they will soon be permitted to come home.[29]

As indicated in his statement, the chairman was also making his views known by private communication with Vietnamese leaders, including Premier Pham Van Dong. In June 1976, Chairman Montgomery again wrote to Pham Van Dong, expressing his thanks for Ambassador Sung's recent reply concerning the disposition of American citizens in South Vietnam. The chairman stressed the limited time available to the committee, and the urgency for action. Largely as a result of these efforts, the select committee was informed that a large group of Americans would be allowed to leave Saigon. In early June, however, reports from Saigon indicated their departure would be postponed. Chairman Montgomery again acted, both publicly and privately, labeling their detention as a very disturbing development.

> I have just telegrammed the Government of Vietnam regarding the last minute detention of these Americans. According to press reports emanating from Southeast Asia, up to 40 Americans were scheduled to leave Vietnam this past

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[28] Memorandum for the Record, Subject: April 23–24, 1976, Meeting in Geneva.

[29] News Release by Gillespie V. Montgomery, Chairman of the House Select Committee on Missing Persons in Southeast Asia, May 2, 1976.

> weekend. Many of them had already been placed on passenger manifests when their departure was unexpectedly cancelled.
>
> We were told in Hanoi last December that no obstacle would be placed in the path of Americans seeking to leave South Vietnam. The members of the Select Committee on Missing Persons in Southeast Asia are most concerned that the Vietnamese follow through on this pledge. Once again, we call upon the Government of Vietnam to expedite the return of these American citizens.[30]

Eight days later, July 21, 1976, the Vietnamese responded to Chairman Montgomery:

> The Americans trapped in South Vietnam will be authorized to leave South Vietnam with their wives and children in early August 1976, with the aid of the HCR.

It was with some satisfaction, therefore, that Chairman Montgomery and the members of the select committee learned of the departure of 50 American citizens and dependents from Saigon in early August 1976. Chairman Montgomery also received a personal telephonic notification of their impending departure from the Vietnamese Embassy in Paris.

The select committee understood that a few American citizens remained in Vietnam, including Arlo Gay and Tucker Gougglemann. It was also aware that several dozens of dependents of American citizens remain there. On the committee's behalf, the chairman immediately wrote to Pham Van Dong, asking for the release of Gay and Gougglemann and of all Americans and their dependents during the latter part of 1976.

In total, during its tenure, the select committee noted the departure from South Vietnam of 68 American citizens and dependents, including Arlo Gay who was released in September 1976.

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[30] News Release by Gillespie V. Montgomery, Chairman of the House Select Committee on Missing Persons in Southeast Asia, July 13, 1976.

CHAPTER III.—POSSIBLY ALIVE?—PUBLIC INVESTIGATIONS

Grief, uncertainty, and frustration characterized the POW/MIA issue at the time the House Select Committee on Missing Persons was established on September 11, 1975.[1]

The frustration rose from the refusal of the Indochinese governments to release information, and the inability of the Department of State to gain an accounting for Americans still missing in Indochina as a result of the war. The grief and uncertainty natural to those who were still missing a loved one and uncertain of his fate were, in this case, intensified by reports and rumors issuing from Indochina that American prisoners had been sighted and that significant numbers of Americans were still being held in prison camps. In some cases, charlatans and intelligence fabricators were known to be preying on the hopes of unsuspecting families. These rumors and reports were widely circulated in the United States and widely believed.

Logic and facts nourished other's hopes. Some speculated that a single American might still possibly be evading capture in a remote corner of Laos or North Vietnam. For others, it did not seem possible that all the missing had died, particularly since some had been reported alive on the ground. For still others, it did not seem possible that of more than 300 missing in Laos, only 9 POW's had survived and been returned in "Operation Homecoming."

It was in this context of ineffective diplomatic efforts to gain an accounting; suspicion, doubt and disappointed hopes; and widely circulating, seemingly plausible stories of captive Americans that the House Select Committee on Missing Persons in Southeast Asia began its investigation.

Clearly, the most urgent and important activity of the select committee was to investigate and determine if any Americans were still held captive in any of the Indochinese countries.

Of the 2.6 million Americans, military and civilian, who served in the war in Indochina, 2,546 did not return to the United States. These Americans were killed or became missing during a 12-year period in five different countries.

Of particular interest to the committee were the Americans still classified as prisoners of war. Logically, those cases should have contained the strongest evidence that the individuals were taken as prisoners. Because of the multiplicity of the reports of Americans still held captive, however, and a distrust of Communist disclaimers that all prisoners of war had been returned in 1973, the select committee began its investigation on the assumption that many of those classified as MIA might also still be alive and held captive.

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[1] Those characteristics were clearly evident in Congressional hearings held on POW/MIA matters in the period 1973–75. See, for example, *Hearings on H.R. 16520, Legislation Concerning the Changing of Status of Military Personnel Missing in Action*, before Subcommittee No. 2 of the Committee on Armed Services, House of Representatives, 93d Congress, 2d Session, October 10, November 19, 1974.

TABLE 1.[1]—AMERICANS MISSING OR THOSE WHO HAVE BEEN DECLARED DEAD—BODIES NOT RECOVERED

Country	Servicemen [2]				Civilians	
	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead [3]
North Vietnam	247	15	213	294	0	0
South Vietnam	227	14	300	566	13	12
Laos	233	2	109	206	5	4
Cambodia	19	2	7	47	7	0
China	2	0	2	0	0	0
Subtotal	728	33	631	1,113	25	16
		1,392				
Grand total			2,505			41

[1] Based on Department of State official record, "U.S. Civilians Missing, Killed, or Unaccounted For in Southeast Asia," Nov. 1976: and Department of Defense official record, "Table 1051, Number of Casualties Incurred by U.S. Military Personnel in Connection with the Conflict in Vietnam," Nov. 1976.

[2] MIA, POW, PFOD, and KIA(BNR) refer respectively to those Americans currently listed as "missing-in-action," "prisoner of war," "presumed dead (presumptive finding of death)," and "killed in action with body not recovered."

[3] Includes both those for whom a State Department Form FS-192 has been issued and those identified by the Provisional Revolutionary Government (of Vietnam) as died in captivity.

In the public hearings held during the select committee's 15-month investigation, many witnesses were questioned about the possibility of live Americans still held captive in Indochina. The witnesses included concerned citizens, MIA wives, leaders of MIA/POW national organizations, recent returnees from Vietnam, representatives of the responsible government agencies, and men who were held captive as POW's in Laos, North Vietnam, South Vietnam, and Cambodia.

Obviously not all these witnesses could address the question with equal authority. Some could only express their personal conviction or "gut feeling" that men were or were not still alive and held captive, offering no evidence for their argument in either case, but often citing another authority. Others, more knowledgeable about Indochinese affairs and in positions with access to recent intelligence reports from Indochina, could address the questions with greater authority and cogency. Knowledgeability and success to the most current information became the most important criteria in evaluating witnesses' statements.

The two most authoritative voices to address themselves to this question were government officials. Both had the greatest access to current intelligence on sightings and reports of live Americans in Indochina. The first was Gen. Vernon A. Walters, Deputy Director of the Central Intelligence Agency and, on this occasion, spokesman for the American Intelligence Community. The other was Deputy Assistant Secretary of Defense Dr. Roger Shields.

Report From the Intelligence Community

In a hearing on March 17, 1976, General Walters apprised the committee of the worldwide efforts of the intelligence community to gain information on POW's and MIA's since 1961. At the time of the hearing, General Walters also submitted a prepared statement for the record.

General Walters prefaced his testimony with the comment:

> These remarks, which have been coordinated with responsible elements of the intelligence community, summarize in a factual and realistic manner all of the reliable, substantive,

> and pertinent information bearing on the current PW/MIA problem.[2]

General Walters briefly described the history and magnitude of the intelligence community's efforts to gain information, and indicated the sources on which his report would be based. These sources included thousands of debriefings and interrogations, all debriefings of escapees and returnees, information from sensitive sources, unclassified information from the media, and eye-witness reports from those who participated in combat actions in which Americans were lost. General Walters then proceeded with a country-by-country analysis of past and current intelligence information on missing Americans.

CAMBODIA

Country	Servicemen				Civilians	
	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead
Cambodia	19	2	7	47	7	0

POW returnees held in Cambodia indicated that everyone they knew of had either returned or been reported as having died in captivity. General Walters mentioned one American deserter active in Cambodia as late as 1974, but he stated that no reliable information has been received in 3 years on other U.S. personnel missing there, nor had there been recent confirmed information on the two American civilians who stayed in Phnom Penh when it was taken over by the Khmer Rouge in April 1975. In his prepared statement, General Walters devoted special attention to reports since 1973.

> Approximately 30 reports of U.S. PW's alive in Cambodia were received from 1973 through April 1975. Several reports were also received indicating that some U.S. personnel who were captured had been killed by their captors or died as a result of wounds sustained prior to or during capture. Since several U.S. personnel, who were known to have been captured in Cambodia, were never accounted for, these reports caused exceptional concern. Each of these reports was analyzed in detail, and, whenever possible, the sources were recontacted to clarify the information they had provided. Most of these reports were (1) related to known U.S. deserters and defectors; (2) refuted as fabricated or embellished accounts based on the former presence of U.S. PW's in Cambodia, PW's who had been released during Operation Homecoming; or (3) of limited value because they could not be correlated to any known Americans. When requestioned, most sources changed their stories. As a result, the original sighting information became less credible.
>
> * * * After the evacuation from Phnom Penh in April 1975, two U.S. civilians were unaccounted for. One unconfirmed report indicated that one of these individuals was seen being led away at gunpoint by Communist forces and that the other was executed.[3]

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[2] Select Committee Hearings, part 3, p. 119.

[3] *Ibid.*, pp. 206–07.

LAOS

	Servicemen				Civilians	
Country	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead
Laos	233	2	109	206	5	4

General Walters stated that the returnees in "Operation Homecoming" had no first-hand information on any other Americans missing in Laos besides the nine who were returned. A more recent releasee, Mr. Emmet Kay, an American pilot held captive in Laos for 14 months during 1973–74, could furnish no additional knowledge of other Americans missing in Laos.[4] The last reliable report on American journalist Charles Dean, who disappeared in central Laos in September 1974 with an Australian companion, Mr. Neil Sharman, dates from February 1975.[5]

General Walters' prepared statement was specific about reports on Americans in Laos.

> Between 1973 and April 1975, 13 reports from Laos mentioned U.S. PW's being held in Khammouane Province during 1973 and 1974, and 25 reports mentioned sightings of Mr. Charles Dean, U.S. civilian, and his companion, Mr. Neil Sharman, Australian civilian. These two men were seen or known to be in Laos together in September 1974, but then "disappeared."
>
> Polygraph examination of sources of reports on U.S. PW's in Khammouane Province determined that the majority of these reports were fabricated, but that some were reliable. According to the apparently reliable information, Dean and Sharman were last seen alive at Ban Phontan, Khammouane Province, on February 23, 1975.
>
> The Pathet Lao have continually denied any knowledge of the two individuals. All diplomatic efforts to obtain information have been in vain. The Pathet Lao have consistently refused to provide information on any of the Americans not accounted for in Laos.
>
> Thai and Lao nationals released by the Pathet Lao in the prisoner exchange of September through November 1974 provided several reports of American PW's sighted earlier in Laos and fragmentary information on crash sites. All of the sighting reports except one could be related to U.S. personnel captured in Laos, moved to North Vietnam, and released during Operation Homecoming.
>
> * * * The Communist Pathet Lao assumed control of government on August 23, 1975; the Communist government of Laos has not furnished any additional information regarding U.S. personnel not accounted for.[6]

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[4] A brief description of Emmet Kay's captivity can be found in Select Committee Hearings, part 5.

[5] For an account of the Dean-Sharman case, see Select Committee Hearings, part 3, pp. 282–6.

[6] Select Committee hearings, pt. 3, pp. 207–08. Questioned later about why so few Americans returned from Laos—only 9 of more than 300, most involved in aircraft incidents—General Walters mentioned the difficulties of the terrain and suggested that few had survived their shootdowns: "One of the factors in Laos that I might point out is we have knowledge of some 300 people who went down. A small percentage of these are believed to have survived of the people who were shot down. What happened thereafter we do not have any intelligence. We can speculate, but intelligence we do not have." (*Ibid.* p. 132).

NORTH VIETNAM

Country	Servicemen				Civilians	
	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead
North Vietnam	247	15	213	294	0	0

The debriefing of the prisoners who returned in "Operation Homecoming" established that all Americans known to have been in the North Vietnamese prison system had been accounted for either as having returned or as having died in prison.[7] There are cases where men were known to have survived their incident, but subsequent information on their fate is lacking.

Rumors of Americans still held captive in North Vietnam continued to circulate. Some reports had been correlated with Americans already released, but, according to General Walters, "There has been no substantive reporting, confirmed or confirmable, of Americans still being held captive in North Vietnam."[8] The General also remarked that the nine Americans trapped in the Central Highlands during the North Vietnamese spring offensive of 1975 and then taken to Hanoi had no further information on missing Americans in North Vietnam.[9]

General Walters' prepared statement gave more detailed information on these reports.

> From 1973 until the fall of Saigon in April 1975, reporting on U.S. personnel missing, captured, or killed in North Vietnam continued. Ralliers, released South Vietnamese, and captured North Vietnamese were debriefed, and the information (similar in nature to that received prior to 1973) was analyzed in great detail.
>
> Sources were reinterrogated, when required, to clarify specific locations, dates and sequences of events. During this time frame, no substantive reports were received to indicate that any U.S. PW's were still being held in North Vietnam. Of the approximately 20 reports per month received, most related to returned PW's or contained information that the U.S. personnel to whom the reports could be correlated did not survive their shootdown incident or were killed. The remaining reports could not be correlated to any American.
>
> * * * * * * *
>
> Since the fall of Saigon in April 1975, no substantive reports have been received concerning U.S. personnel unaccounted for in North Vietnam.[10]

SOUTH VIETNAM

Country	Servicemen				Civilians	
	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead
South Vietnam	227	14	300	566	13	12

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[7] In 23 cases, the captured Americans were reported by the DRV as having died in captivity; these men were last seen alive by returnees, but their physical or mental condition strongly suggested they would not survive.

[8] Select Committee Hearings, part 3, p. 123.

[9] Two of these nine, Mr. Paul Struharik and Mr. Jay Scarborough, testified before the Select Committee. See Select Committee Hearings, part 2, pp. 24–37, 53–55.

[10] Select Committee Hearings, part 3, p. 208.

One American, captured in 1965, was known to have collaborated with the enemy from 1967 to 1969, and perhaps until as late as August 1973. However, according to General Walters, all Americans captured in South Vietnam who were known to the prisoners returning in "Operation Homecoming" were accounted for. There were cases of men known to have been captured and alive in enemy hands for whom no accounting was ever given. "We have no substantial information on any of these cases of missing Americans", declared General Walters.[11]

An indication of the volume and reliability of reports relating to Americans allegedly held captive in South Vietnam was given in General Walters' prepared statement.

> * * * The volume of intelligence reporting after Operation Homecoming remained at approximately pre-Homecoming levels until the 1975 Communist spring offensive in South Vietnam. The number of PW reports regarding Americans in South Vietnam received from the field during this time period averaged 15 to 20 reports per month. The majority of these reports referred to Americans who allegedly were sighted prior to 1973. No significant change in the reliability of the reporting was noted during this period.
>
> The validity of the reporting during the period between Homecoming and April 1975 was evaluated as follows: About 40 percent of the reports received were determined to be true based upon correlation with the data base or confirmation from other sources. About 40 percent of the reporting could not be evaluated for various reasons, such as: (1) insufficient casualty information in the report, or (2) the report contained information in partial conflict with the data base.
>
> About 20 percent of the reports were evaluated as doubtful or false. Although there were several reports alleging Americans were being held in captivity after Operation Homecoming, none could be equated to Americans who had not been accounted for. There is, however, one exception. An American was captured in Quang Nam Province, South Vietnam in 1965, but later "crossed over" to the enemy and possibly is still alive in South Vietnam. According to U.S. returnees who had contact with this individual, he was a legitimate prisoner from 1965 to 1967, before joining the ranks of the enemy.
>
> * * * Since April 1975 there have been many first-hand and hearsay reports of Americans still in South Vietnam. Analysis indicates most of these reports refer to the American civilians who were not evacuated from South Vietnam in April 1975. The validity of the small number of fragmentary reports about Americans other than those known to have missed evacuation has been impossible to determine. The capability for follow-up on such reports is limited to re-questioning of sources who have departed South Vietnam, and questioning of any future escapees or persons allowed to leave South Vietnam.[12]

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[11] *Ibid.*, p. 123.

[12] *Ibid.*, pp. 206–208.

CHINA

Country	Servicemen				Civilians	
	MIA	POW	PFOD	KIA (BNR)	Missing	Presumed dead
China	2	0	2	0	0	0

When questioned about the rumors that some American POW's had been taken into southern China, General Walters said that these rumors had been tracked down and no evidence found to substantiate them. He added:

> Let me put it this way. There was no evidence from the area or from any CIA activity in that area there were any American prisoners being held in China or in that border area.[13]

General Walters summarized the intelligence community's assessment of reports on Americans still held captive in Indochina in the following way:

> There are cases where we are certain that the Communist governments of Indochina could account for the fate of persons known to have been alive since 1973 and in captivity or under Communist control. But we have no firm evidence that American PW's from the period before 1973 are still being held.[14]

Or, as he said in his prepared statement:

> Since April 1975 there has been no hard evidence that American PW's captured before the fall of Saigon are still being held in PW camps or elsewhere in South Vietnam. There has been no new substantive information from North Vietnam. Reports from Cambodia and Laos have been few and not very informative. There remains the possibility that one American civilian is alive in Laos and one American deserter in Cambodia.[15]

Concluding his testimony, General Walters drew the threads of his information on this subject into one brief statement:

> A review of the intelligence community's holdings shows that we have no confirmed information that additional American PW's are still being held in captivity in Southeast Asia or elsewhere, as a result of the Indochina war.[16]

REPORT FROM THE DEPARTMENT OF DEFENSE

As Deputy Assistant Secretary of Defense and the Defense Department's official who had been intimately involved in MIA/POW affairs for more than 5 years, Dr. Roger Shields had access to all intelligence information and a unique familiarity with the POW/MIA issue. He testified before the select committee on four occasions in the course of its investigation. Twice his remarks focused on the reports of live Americans, and on both occasions his comments reinforced those of General Walters.

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[13] *Ibid.*, p. 133. See also a similar statement by General Walters in his prepared statement, *ibid.*, p. 208.

[14] *Ibid.*, p. 123.

[15] For similar statements in the questions period following General Walters' testimony, see *ibid.*, pp. 128 and 132.

[16] *Ibid.*, p. 125. For a similar conclusion in his prepared statement, see *ibid.*, p. 208.

Dr. Shields was doubtful that any Americans were still held captive in Indochina. At a hearing on September 30, 1975, Dr. Shields remarked:

> At the present time the distinction between "prisoner of war" and "missing in action" is probably an academic one. * * *[17]

He stated that intelligence reports had been reduced drastically since the fall of South Vietnam. Of the reports since the signing of the Paris Peace Agreement in 1973, he stated:

> With regard to the other reports we have received, we have never been able to correlate them positively with Americans, with military who would still be held captive in Southeast Asia. We have endeavored, even through the use of such things as polygraph tests for informers who would come over and tell us these things, to find out if we could pinpoint these reports which we had received so that we could refine them and say, yes, that's valid, we are sure some Americans are there. We have never been able to do that.[18]

In a later exchange with Congressman Henry B. Gonzalez (D-Tex.), Dr. Shields evinced the same caution and doubt:

> Mr. GONZALEZ. So in terms of numbers, what or how many would you feel there is reason to believe are alive?
>
> Dr. SHIELDS. That's the most difficult question of all to answer. My own feeling—and anyone working in this area simply forms his or her own judgment—frankly, is one of question.
>
> There were men alive at one time. Whether these men are still alive or not is an open question.
>
> There are men who should have been captured, who were alive, having successfully ejected from an aircraft, who were seen alive on the ground who talked to the men in the air and said "Here comes the enemy, and I'll see you when the war is over," and of whom we have heard nothing more.
>
> When you look at the other side of the question North Vietnam, the P.R.G. and the Pathet Lao have steadfastly denied there are any living Americans held prisoner now.
>
> * * * As for how many men are still alive, it's certainly possible that some men are, but throughout this whole thing we have not been able to put our hands on a missing man who is alive and say he is alive.[19]

At a later hearing in February 1976, Dr. Shields was asked the number of men known to have been alive, on the ground, in enemy territory. Dr. Shields replied that it was certainly less than 20 for all of Indochina, and estimated no more than a handful for any Indochinese country.[20]

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[17] Select Committee Hearings, part 1, p. 31.
[18] *Ibid.*, p. 34.
[19] *Ibid.*, p. 37.

General Walters and Dr. Shields were not the only witnesses to raise doubts that Americans were still captive in Indochina. However, it was most significant that neither the spokesman for the American intelligence community nor the Defense Department official directly responsible for POW/MIA matters could find evidence to support the belief that Americans were still held captive in Indochina. Their authority was certainly not considered infallible. Any contradictory report, however, would henceforth be studied carefully and evaluated in terms of substantiating evidence.

Additional Testimony

Many other witnesses gave strong expression to their convictions that some Americans were still alive, or that many, if not all, were dead. The committee had to scrutinize carefully the credentials of witnesses to address this question.

Several witnesses addressed themselves to the question of whether any missing Americans were alive in all of Indochina.

General Kingston, JCRC Director

One witness with considerable authority to speak on this subject was Maj. Gen. Robert C. Kingston, first commander of the Joint Casualty Resolution Center (JCRC) from the time it was formed in early 1973 until January 1974. General Kingston's testimony focussed on the JCRC, its history and methods. But during the question-and-answer period following his testimony, a question was posed about Americans still alive in Vietnam. General Kingston broadened his response to include all of Indochina.

> Mr. Gonzalez. * * * Is it your feeling or opinion that there are Americans yet alive in Vietnam?
>
> General Kingston. No, sir. I do not believe there are Americans still alive in Southeast Asia, with the possible exception of eastern Cambodia; and they are probably not military.[21]

Adm. John McCain

Adm. John McCain was more hopeful and optimistic. He served as Commander in Chief, Pacific, from 1968 to 1972.

During that period, he had access to all intelligence reports, and in his testimony, he spoke of the high priority given POW/MIA concerns.

Admiral McCain repeatedly asserted that he felt a small number of Americans was still alive in Indochina. When asked how many, he opined that perhaps 20–30 were alive. When asked whether he had "any evidence at all that there is anybody alive", he admitted he did not. His opinion, he said, was based on a deep distrust of the Communists and POW/MIA reports he had seen as Commander in Chief 4 to 8 years earlier. He added that his son, who was 5½ years a POW in North Vietnam, had passed no information to him that any Americans were still alive.[22]

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[20] Select Committee Hearings, part 3, pp. 25–26.
[21] Select Committee Hearings, part 2, p. 71.
[22] Select Committee Hearings, part 3, pp. 42–3, 46, and 48.

Dr. Henry J. Kenny

During a November–December 1975 trip to Southeast Asia, Dr. Henry Kenny, professional staff member for the select committee, met with Mr. Sone Khamvanevongsa, Pathet Lao Representative in Vientiane; Mr. Soubanh Srithirath, Chief of Cabinet of the Lao Foreign Ministry; and Dr. Chansamone Vongsaphay, Director of Political Affairs in the Foreign Ministry. Dr. Kenny reported on the discussions as follows:

> I emphasized to all three the possibility of a live American being located somewhere in a remote village or farm in Laos. I particularly noted that given the size of the country, the sparsity of the population, and the fact that the war was going on, but was now over, that conditions might exist now to find such a person whereas it would previously have been impossible or more difficult to do so. * * *
>
> Regarding the possibility of a live American in Laos, all three responded by saying that all prisoners had been returned just after the agreement of February 1973.[23]

One official, however, admitted the possibility that an American might be alive in some remote corner of Laos, though he knew of none.[24]

Dr. Kenny further reported that he discussed the question of what happened to specific individuals, by name, but that the Pathet Lao denied any knowledge of their fate.

Dr. Kenny was then questioned regarding the possibility of survival in Laos.

> Mr. GUYER. We do know that military people were found alive after World War II on both Okinawa and in the Philippines, people who were not deserters, who were hiding out on their own, and they could have walked away from the scene. Would there have been enough friendliness in Vietnam for such people to have been taken in and to have survived?
>
> Dr. KENNY. No, I don't think so. I talked to the British defense attaché, who—if he is not the world's foremost expert on survival—he nearly is. He thought it would be most difficult for anyone to survive in that type of terrain, especially in view of its lack of good or sufficient food.[25]

When questioned regarding his personal opinion on live American prisoners, Dr. Kenny said he felt it might be possible that less than five Americans could be alive, but that he was given no evidence to support such a belief.[26]

Other witnesses based their convictions that men were alive in Indochina on public sources of information, such as statements from Indochinese governments or the classifications of the Department of Defense.

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[23] Select Committee Hearings, part 2, p. 77.

[24] Select Committee Hearings, part 2, pp. 77–78.

[25] Select Committee Hearings, part 2, p. 84. The British officer was former commander of the famous Jungle Warfare School in Malayasia, which placed great emphasis on survival in tropical areas.

[26] *Ibid.*, p. 85.

Mr. E. C. Mills, National League of Families

Mr. E. C. Mills, father of an MIA and then Chairman of the Board of Directors of the National League of Families, emphasized the fact that some were known to have been alive on the ground, yet were not returned in 1973 and were not accounted for. He also drew attention to the number still carried as POW.

> Mr. MILLS. * * * In fact, I would say that the remaining 36 POW's that the Defense Department carries as POW's, they did not put them on there unless they pretty well determined they were at one time POW's, yet they did not return home. So each of the 36, I would say, would be a discrepancy that we would hope you would look into. We will furnish you, if you would like, information regarding these, where they live, and so forth.[27]

Mr. Mills' implication was that some were still alive, and an accounting, at least, should be demanded.

Mr. George Brooks, National League of Families

Mr. George Brooks, an MIA father and at the time a board member of the National League of Families, thought it a great possibility that some MIA's were still alive.

> I would like to impress upon the committee—I know you have many other problems which you have to be involved with, with your constituents—but I do not want anyone to think that MIA necessarily means dead, because we have had instances in the past, at the time of the release from Hanoi, many of those men at that time were MIA and had been MIA. I have had many good moments in this whole thing, but one of the best moments I had was when I was standing alongside of a good friend of mine by the name of Henderson when a release came out here in Washington. He looked at the list and saw his son's name on there. That is the first time that he knew he was alive in over 5 years.
>
> You have the case of a man who was released after the Korean war who had been held in China for a long period of time.
>
> You have the story of Marian Harbat, who wrote a book, "Captured or Captivity," was picked up by the Chinese Communists and held for years in China, with no notification to this country. She certainly was not military. Finally, she came home and found there were memorial services for them.[28]

Mrs. Iris Powers, The National League of Families

Other witnesses, former officials of the National League of Families, expressed the opposite viewpoint about American captives in Indochina. Mrs. Iris Powers, an MIA mother and one of the founders of the National League, was extremely doubtful that there were any Americans still held captive in Indochina.

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[27] Select Committee Hearings, part 1, p. 67. Two of the 36 POW's referred to by Mr. Mills on October 9, 1975, have since been presumed dead.

[28] *Ibid.*, p. 73.

> Let me turn now to our present predicament and my feelings.
>
> As an MIA next-of-kin who has been fortunate enough to live in this area and be privy not only to the inner workings of our Government through my association with the league from 1970 to 1974, but privy also to the considered judgment of many notables in the field of Asian affairs who were not immediately involved in the POW/MIA issue, and I have come to some conclusions.
>
> To the question of:
>
> 1. Are there men still alive and being held captive in Southeast Asia? My answer would be, "Not likely." Having listened to Navy Comdr. George Coker, a returnee, and reading the transcript of a 4-hour-long presentation made to the league board in October of 1972 at my request as chairman, I would agree with his logic.[29]

An MIA wife at the same hearing, Mrs. Vinson, agreed with Mrs. Powers.

> Mrs. VINSON. There is no definite knowledge that there is anyone alive. In talking to people after the so-called end of the Vietnam war, there has not been presented any evidence that I am aware of that has been substantiated there were any Caucasians alive or sighted anywhere in Southeast Asia.
>
> * * * I am speaking for myself. I personally do not believe that my husband is alive. I really feel very sorry for anybody who honestly thinks that her husband or son is alive. That is pure hell, because I know for 6 years I still had the hope that my husband was alive. I think having accepted the fact that he is dead also brings you some peace.[30]

Witnesses that testified about Americans held captive in particular Indochinese countries reflected some of the same conflicting opinions.

CAMBODIA

Mr. Walter Cronkite, Chairman, Committee to Free Journalists

Mr. Walter Cronkite, CBS Newsman and Chairman of the Committee to Free Journalists held in Southeast Asia, testified on his committee's efforts to gain information on the five American journalists lost in Cambodia in 1970.

Reliable reports on some Americans in eastern Cambodia had been obtained as late as September 1973, 3 years after the journalists were lost. However, Mr. Cronkite could report no reliable reports since then, and when requests for information were made of Cambodian officials, they replied that they had "absolutely no knowledge of missing Americans".[31]

Mr. Richard Dudman, Cambodian POW

Mr. Richard Dudman testified at the same hearing with Mr. Cronkite. Mr. Dudman, a journalist for the St. Louis Post-Dispatch, was captured in May of 1970 and held as a prisoner in Cambodia for 40 days. In his testimony, Mr. Dudman recounted his physical condition.

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[29] Select Committee Hearings, part 2, p. 43. Commander Coker's statement is in Select Committee Hearings, part 2, pp. 103–130.
[30] *Ibid.*, pp. 45 and 51.
[31] Select Committee Hearings, part 3, p. 148.

> Mr. Morrow and I both suffered from boils that I found out after my release were one of the symptoms of an Asian disease known as melioidosis. It is a bloodstream infection that has a fatality rate of about 50 percent in some cases. It is found endemic in the soil of that area.
>
> I mentioned dysentery. That is a constant hazard. We had bad water several times. * * * The food was not really adequate for a westerner. We were urged to eat as much rice as we could hold * * * but I was down to about 135 pounds from a normal 155–160.[32]

He had no additional information on missing Americans. However, difficulties of his captivity pointed to the hazards of life in Cambodia, and raised the question of the probability of survival.

A question on that topic emerged later in the hearing.

> The CHAIRMAN. * * * Considering the climate in Cambodia, the heavy vegetation, the diseases in that country, and other problems that go with Cambodia, what would be the odds that these five or six Americans that were seen alive—and we know they were alive in 1972 and 1973, as Mr. Cronkite detailed—could still be alive in March of 1976?
>
> Mr. CRONKITE. Mr. Chairman, I wouldn't even put a figure on that as to the odds. I just have absolutely no way of knowing. I don't think anyone really knows what the conditions in Cambodia today are. You hear horror stories of what the regime is doing with their own population. We hear that they have a great problem with food supplies, that they have driven people into the countryside and forced the city workers to go into the fields to attempt to grow and harvest their own food.
>
> I would think that the foreign correspondents who were Americans I am sure were resourceful.[33]

Lt. Col. Raymond Schrump (Ret.), Cambodian POW

Lt. Col. Raymond Schrump, a Special Forces officer captured in South Vietnam in 1968, recounted the circumstances of his capture and the treatment he received during the next 5 years, while he was captive for 3 years in South Vietnam and 2 years in Cambodia. About the possibility of Americans still held captive, he said:

> I would like to state that I personally believe that they are still holding men in Indochina. I have no fact to base this on. It is just a gut feeling that I have. I don't think that North Vietnam or South Vietnam are holding prisoners in either one or those countries. I think if there is anyone alive, they are in Cambodia or Laos. And this way, the North Vietnamese can deny holding any prisoners. And I do not think we will ever know about Cambodia for years to come. * * * Probably you could count them on your fingers.[34]

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[32] *Ibid.*, p. 148.
[33] *Ibid.*, p. 150.
[34] Select Committee Hearings, part 4, pp. 86 and 89.

Mr. Schrump was questioned further about other Americans he had seen who were not accounted for.

Colonel Schrump later recounted seeing two severely wounded Americans as he was being brought into a prison camp. When he tried to speak with the Americans, he was struck in the head with a rifle butt. He never learned their identities and was unable to identify them.[35]

Colonel Schrump was also asked about the possibility of survival.

> Mr. Gilman. In your opinion, would someone who was captured in Cambodia or Laos be able to survive all of these years without having come forward?
>
> Mr. Schrump. Only if he was held captive. On his own, in an escape or evasion type situation, I don't believe they could survive. But being held, they can take just as good care of you as they can their own people, if they want to.[36]

Colonel Schrump then related experiences indicating POW's were not so well taken care of. He himself was placed in a covered hole for 30 days, without washing or toilet facilities, and with the barest food allowance. He also recounted the gruesome stories of three fellow American POW's who died at the not-so-tender mercy of their Viet Cong captors.[37]

A case study—WO Michael Varnado

The select committee devoted a hearing to the special case of an individual lost in Cambodia, Warrant Officer Michael Varnado. Mr. Varnado was listed as missing in action in Cambodia in early May 1970. For almost 3 years, he was carried as missing in action. Then his name appeared on a list of the died in captivity provided to American negotiators on January 27, 1973. A short time later, statements were also received in debriefings from returned prisoners of war, indicating they had seen Mr. Varnado in a POW camp in September 1970. He was in very poor health at that time and was supposedly being taken to a hospital. The returned prisoners were of the opinion that he did not survive.

In the light of this new information, the Department of the Army changed Mr. Varnado's status from missing in action to deceased.

According to the witness, Mrs. Willena Varnado, Warrant Officer Varnado's mother, the family considered the case closed. However, in 1975, the Army informed the Varnado family of an intercepted message. The telegram from the Army read:

> The source of the report, believed to be an indigenous native, stated that around July 5, 1974, a telegram from Khien Samphan, Deputy Prime Minister of the Royal Government of National Union, was received by the National United Front of Kampuchea (Bureau Politique), in Peking, stating that Mike had been captured and was being held by Communist forces in the Khmer Communist area of Kratie Province, Cambodia, as of July 1974.
>
> The telegram was shown to Prince Norodom Sihanouk, who read it and returned it to the Bureau. The source said

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[35] *Ibid.*, p. 88.
[36] *Ibid.*, p. 9.
[37] *Ibid.*, pp. 78–87.

> the telegram was only a few lines long and did not mention the health of the prisoner or any plan to move him from Kratie.
>
> It gave only the name and the grade of the American, and stated that he had been captured and was being held by the Cambodian People's National Liberation Armed Forces in Kratie.
>
> Cables of this nature regularly go from Cambodia to Hanoi, then to Peking, but this was the first time in three and a half years an American name was seen.[38]

Committee Staff Director J. Angus MacDonald filled in further details.

> Mr. MacDonald. * * * A second name was mentioned in that cablegram, Army Specialist Fifth Class Harris. He was shot down in a helicopter in 1971. There were reports that he had been killed in the crash, but again, there was no prima facie evidence that he was.
>
> I believe what Mrs. Varnado is bringing out is that here were the names of two Americans shot down approximately a year apart, both mentioned 3 or 4 years later in a message from Cambodia and received in Peking, China; the spelling of the names was correct. In the case of Harris, his first name, Glen—G-L-E-N—one N—rather than the usual two N's, and that was the correct spelling.[39]

The appearance of these two names in the same message fired a new hope that the men were alive. However, the source of the information was not entirely reliable, as Mr. MacDonald pointed out:

> When this other report came in, it was obviously emanating from a sensitive source in Peking, China, the only way that it would have been possible to know that Prince Norodom Sihanouk had actually seen the message.
>
> When the Army made an attempt to go back and trace the source and get an evaluation of the credibility of that source from the agent, they could no longer contact that particular indigenous individual. Apparently the intelligence community had lost all contact with him.
>
> Although I understand that the Army had posed a series of detailed questions in order to test the nature of the source, as I understand it, the source was described as not yet having established a record of credibility. He had previously provided information to the intelligence community, some of which was reliable and verified, other of which was inaccurate and proved to be so. Because of this, we were unable to test the source.[40]

The Army continued Mr. Varnado in his status as presumed dead.

LAOS

Two witnesses with personal experience in Laos answered questions about the probability of American prisoners still held captive in Laos.

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[38] Select Committee Hearings, part 3, p. 73.
[39] *Ibid.*, p. 75.
[40] *Ibid.*, p. 74.

The first was a POW captured in Laos and then taken to North Vietnam. The second was an MIA father who had travelled to Laos in search of information on his MIA son and on other missing Americans.

Mr. Ernest Brace, Laos POW

Mr. Ernest C. Brace, a civilian pilot captured in Laos in 1965, was held as a prisoner for the next 8 years in Laos and North Vietnam. In his testimony, Mr. Brace described the difficulties he encountered in trying to survive. He was not optimistic about the probability of survival for the approximately 240 Americans still carried as MIA in Laos.

> Mr. GILMAN. In your opinion could people survive for any length of time in Laos without communicating with a village? Would they be able to manage?
>
> Mr. BRACE. Well, you could not cross country through the jungles. And if you picked fruit near a village, they are going to know it. Any edible vegetable you pick around a village, they would know it. It is like a garden in the backyard, if someone gets in there and even takes a few things, you are picking from it daily and you would know about it.
>
> I think it would be impossible for a man to survive, without village contact of some sort, longer than 3 or 4 months, let's say, because you will come down with the various diseases.
>
> Even the mountain stream water, you will come down with something out of that water. Some types of parasite, the leeches which have parasites, and the ticks, and the lice from the jungle.[41]

Mr. Brace affirmed the effectiveness of the POW communication system in North Vietnam, stating that everyone he knew or had heard of while he was a prisoner had been accounted for at the time of the POW releases. He had no further information to give on other Americans missing in Laos.[42]

In response to Chairman Montgomery's question concerning the POW's census system and possibility that any other POW's could be alive, Mr. Brace responded.

> Mr. BRACE. No. The thing in common among the nine of us that came out of Laos was that every one of us had been captured or immediately after capture had been taken over by the North Vietnamese Regulars. Not a one of us had been held for any period by the Pathet Lao.[43]

Mr. Brace did not think it likely that the Pathet Lao were still holding prisoners.

> The CHAIRMAN. Why would the Pathet Lao hold you; do you know? That is one of the problems we are trying to solve: Why would they hold the Americans prisoners in Laos? Or why would they be holding you? Do you have any feel for that?
>
> Mr. BRACE. I see no reason for the Laotians to be holding any Americans in Laos. There is no propaganda value. We

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[41] *Ibid.*, p. 179.
[42] *Ibid.*, p. 174.
[43] *Ibid.*, p. 175.

> were not workers. We haven't worked in the fields. We are pretty soft compared to their standards.
>
> I see no reason for the Pathet Lao to hold Americans prisoners. There is nothing to be rebuilt in Laos that I can see, unless you want to rebuild the city of Vientiane, which was never really wrecked.
>
> But I think as far as Americans being alive in Laos, I would say it is a possibility, but it is very unlikely.
>
> The CHAIRMAN. A possibility, but very unlikely?
>
> Mr. BRACE. Very unlikely. I see no political reason for it. I see no practical reason for it from the Laotian standpoint whatsoever.[44]

Mr. Brace added that he did not expect any of those still carried as MIA to return.[45]

Finally, he was extremely skeptical about the reliability of the information obtained through private sources.

> If you want information about POW's, I have been back in Bangkok several times since I got out, and if you take a wallet full of money over there, you can buy all of the information you want on POW's on the streets. They will give you pictures and everything else, introduce you to contacts, but when you try to run them down, they fizzle out somewhere down the line.
>
> If you have got the money and go there, you can get information. But whether it is any good or not, that is the big question.[46]

Col. Vincent Donahue (Ret.), MIA Father

MIA father Vincent Donahue, a retired Air Force colonel, expressed the firm conviction that some Americans were still alive in Laos, basing his belief on the statements of officials from various governments and the hope he had gained discussing survivability with a number of Americans in Laos.

Colonel Donahue quoted Secretary of State Henry A. Kissinger as stating, in February 1974, to the National League of Families Board of Directors: "There is a good possibility of Americans still being held alive in South Vietnam, Laos, and Cambodia." [47]

When questioned later about his sources, he cited a 1972 conversation with Soth Pethrasi, Pathet Lao delegate to the Lao tripartite government.

> The third year, my wife prevailed upon me to take her with me, and during the course of our third meeting with him, Pethrasi became a little nostalgic. He reminisced a little bit, and he said he had lost a son at Dien Bien Phu, and knew how we felt.
>
> And he said, "Yes, we have over 100 American MIA's." This was the chief delegate of the Pathet Lao in Vientiane talking. Today he is one of the ministers in the Pathet Lao Government. I don't know if it's transportation, education,

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[44] *Ibid.*
[45] *Ibid.*, p. 183.
[46] *Ibid.*, p. 182.
[47] *Ibid.*, p. 82.

> war, or agriculture but he is one of the ministers of the Pathet Lao Government in Vientiane now.[48]

In this regard according to the National League of Families Newsletter of February 26, 1974, Secretary Kissinger authorized the League to attribute to him the general statement that he was "generally very pessimistic" about the possibility of additional American prisoners being alive in North Vietnam. He feels there is a possibility—but a remote one—that Americans could be alive in Laos, Cambodia, or South Vietnam.

Donahue emphasized the possibilities for survival in Laos.

> What I am saying, and what she [Judy Stover] said, and what Pop Buell told me, is that it's perfectly possible for Americans to be alive in such villages, to become part of the way of life of those villages. They are not prisoners, but they can't be allowed to leave, because by leaving they will surface the village which has been offering them shelter and succor over the years, and the village would be annihilated as a consequence.[49]

Col. Donahue submitted no further evidence to substantiate his belief, but he did provide the committee with sources he thought might prove informative and useful.[50]

VIETNAM

Rear Admiral William P. Lawrence, North Vietnam POW.

While serving on his second tour of duty in Vietnam as a Navy pilot, Rear Admiral William P. Lawrence was shot down over North Vietnam on June 28, 1967. For the next 6 years, he was a prisoner of the North Vietnamese, held in the prison camp known as the "Hanoi Hilton".

Admiral Lawrence testified on the effectiveness and completeness of the communications system among prisoners in North Vietnam.

> From 1971 until our release in 1973, we had a very highly formalized memory bank system that we kept refining as the time went on. I feel that when we were released in 1973 we had as accurate a list of names as possible, we had as accurate a portrayal of the events that occurred during the POW history as possible. Although there were POW's who were maintained in North and South Vietnam with whom we had no communication, I think after our release, by comparing our information with their information in our debriefings and so forth, that the Government today has the most accurate information possible from the total POW community.
>
> We basically had three categories of names. First, we had a list of those POW's who were known to be in the system at

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[48] *Ibid.*, p. 90. Although he did not include it in his testimony, Col. Donahue informed the staff of his final conversation with Soth Pethrasi in 1973 at which time the Lao denied holding any Americans, averring that all [nine] had been released in "Operation Homecoming". See ch. IV. Communist Statements.

[49] *Ibid.*, p. 100. The staff subsequently contacted Ms. Stover, who stated that although she had been alert to the POW/MIA issue from her conversations with Colonel Donahue and others, and had tried to secure information, she never received any information or reports, nor did she see any evidence that the Pathet Lao held American prisoners. Pop Buell was also contacted, but had no further information.

[50] For the information these sources were able to provide, see p. 88 of this report.

> the time of release. I think we had an accurate list of those men who were known to be POW's, but disappeared at some time during captivity and never were seen again.
>
> I might comment on this category of people. The Vietnamese very carefully never let us see another POW die in captivity. They always pulled the man out from us before—and he never died in our presence.
>
> In the third category of names, I feel we had a very accurate list of those men who had been seen on the ground prior to arrival in Hanoi or, say, immediately after shootdown but then never appeared in the POW system.
>
> In summary, we had accurate information on those three categories of people.[51]

Admiral Lawrence was questioned on whether he believed any Americans were still held captive in Vietnam.

> * * * Well, of course, this is an opinion based on my best educated analysis of the situation. I feel that the North Vietnamese released all of the American prisoners, because the list of names that we had coincided with the list of people who were released, died in captivity, et cetera.
>
> I perceive that they had a very strong incentive to release all of the Americans in order to facilitate the peace agreement. They knew that in order to achieve a peace agreement and to obtain the approval of the Americans to withdraw from Vietnam, that they had to release the POW's. So it is my opinion that they did release all the Americans in Vietnam. I have seen no indication from the actions of the North Vietnamese that they still have any Americans still alive in North Vietnam.
>
> I cannot speak any more authoritatively on Laos and Cambodia than anyone else in this room. My personal perception is that I have seen no indication on the part of the present governments in Laos or Cambodia that they hold Americans.[52]

Ms. Anita Lauve, Expert on French POW/MIA Experience

Another witness asked for her opinion on the possibility of Americans still held captive in Indochina was Ms. Anita Lauve. Ms. Lauve served in Vietnam as a foreign service officer, and, through her research established a reputation as one of the foremost experts on the French experience with POW's and MIA's following the French-Indochina war.

Ms. Lauve was asked several times about the possibility of Americans still being held captive in North Vietnam.

> Ms. LAUVE. I don't think so. One reason I don't think so is that they know the reaction of the public here would be very strong. If anyone knew of it, everyone would soon know it, and they would lose all chance, I think, of getting any reconstruction funds or remuneration for the recovery of bodies. That is the reason I think they wouldn't do it.

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[51] Select Committee Hearings, part 3, pp. 105–106.

[52] *Ibid.*

The **Chairman**. That they wouldn't be holding any alive, but they will try to bargain and trade for repatriation of the remains that they might have and know the location of?

Ms. **Lauve**. Yes. But I do think that since they so often used various categories to describe prisoners—such as deserters, ralliers, or some other term—it might be fruitful if at some time instead of asking, "Do you hold any prisoners?", you were to give them a facesaving device by adding these other categories. Make them come out and say categorically, "We don't have any deserters, or ralliers, or released before the cease-fire." These were categories they used before with the French.

Then if they say, no they have none, I think you can be almost—if not absolutely—sure they have none.

* * * * * * *

The **Chairman**. We tried to be as specific as we could during our discussions in Paris and Hanoi when we inquired about the possibility of any Americans being held alive. We went outside and we came back in and reworded our questions to try to get the answers as best we could. However, your suggestion of specific terminology might be well to pursue at our next meeting with them.

Even though we tried to pin them down as much as possible, we received no affirmative indication that any Americans are still alive.

Ms. **Lauve**. I think that is probably true, I don't think there are any Americans alive in North Vietnam. As I said, I think that in their own self-interest, they wouldn't hold any.

* * * * * * *

Mr. **Gilman**. In response to the chairman, you stated that in your opinion there were no further Americans being held, yet how do you account for the North Vietnamese not acknowledging that they were holding French prisoners, legionnaires, and deserters, for a 14-year period and not making these statements?

Ms. **Lauve**. They may have told the French that the 40 men returned in 1962 were ralliers, I am not quite sure but they probably did. If countries of missing foreign legionnaires or Africans made any inquiries, they probably told them the same thing.

They claimed that a rallier was a defector and therefore he didn't fall into the category of prisoner of war—just as they claimed that prisoners whom they had released in North Vietnam before the cease fire were not prisoners of war to be turned over under the terms of the Geneva agreement. Unfortunately, the agreement was so worded.[53]

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[53] Select Committee Hearings, part 4, pp. 17–18 and 19–20.

Article 6 of the "Protocol on Prisoners and Detainees," a protocol to the Paris Peace Agreement of 1973, was very carefully phrased precisely to prevent this kind of legalistic evasion. See chapter VI, "Diplomatic Efforts."

However, to be certain all avenues of investigation were explored, Chairman G. V. Montgomery personally wrote to the Vietnamese Premier, Pham Van Dong, posing the specific questions suggested by Ms. Lauve. To date, no response has been given.

Mr. Paul Struharik

Two more recent returnees from Vietnam were decidedly negative about Americans still held captive in Vietnam. Mr. Paul Struharik and Mr. Jay Scarborough were captured in March 1975, when North Vietnamese troops overran the area of South Vietnam where they were working. Both were taken to North Vietnam and held captive until the time of their release on October 30, 1975. The select committee asked both gentlemen to testify and exhibited special interest in learning if they had gained any information on Americans still held captive.

In his testimony, Mr. Struharik stated:

> * * * At no time during our imprisonment did we see or meet other foreign or American prisoners. The Vietnamese Communists were in fact quite sensitive about this matter. Whenever the subject arose, they went to great lengths to explain their position, that they had in fact released all the prisoners at the time of the cease-fire agreement.[54]

Members of the select committee questioned Mr. Struharik repeatedly about any information he might have gathered:

> The CHAIRMAN. Why did they mention that they were holding no more Americans? Did you and others of the American group ask about the missing in action?
>
> Mr. STRUHARIK. Yes. This would come up usually in relationship to our own circumstances, that is, well, "The war has been over for months now. You let the pilots go after 2 months. What are we doing here?" This would lead on to a discussion of "You will be released sometime just as we released the other prisoners, even the pilots who came to bomb North Vietnam." That is the way that subject usually arose. They never brought the subject up themselves. It was usually in response to something we asked.[55]
>
> * * * * * * *
>
> Mr. GILMAN. * * * In all your time in Southeast Asia, at any time did you receive any reports of any American prisoners that were still alive?
>
> Mr. STRUHARIK. Do you mean during my imprisonment, or in the 6 years that I was there?
>
> Mr. GILMAN. During the 6-year period.
>
> Mr. STRUHARIK. Well, back in 1968, after the Tet offensive when there were Americans captured in Ban Me Thuot, we heard reports or rumors, if you will, that the Americans were being moved from here to here. These are people that have all been accounted for now, either released or died in captivity. Primarily, I am talking about Mike Benge, Hank Blood, and Betty Olson, who were captured in 1968. Other than that, I don't recall any substantive reports at all that there were Americans being held in this area or that area.[56]

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[54] Select Committee Hearings, part 2, p. 27.

[55] *Ibid.*, p. 28. See also p. 31.

[56] *Ibid.*, p. 34. Mr. Benge was repatriated from Hanoi in 1973 and reported that he had been present when Blood and Olson died on the trail en route to North Vietnam.

Mr. Jay Scarborough

Mr. Jay Scarborough responded to questions about information on POW's and other missing Americans in similar fashion.

> Mr. GILMAN. While you were in Vietnam did you receive information as to captives other than the POW's who were returned in the 1970's, whether they be civilian, military personnel, journalists, or missionaries? Did you receive any reports as to any captives?
>
> Mr. SCARBOROUGH. No; not any living captives. All we heard about the MIA's was what we heard on Radio Hanoi. Radio Hanoi was saying they were ready to discuss the matter with the United States.[57]

Mr. Richard Mielke

Mr. Richard "Mike" Mielke, retired Army non-commissioned officer (E–7) and the Saigon representative for the POW/MIA organization Voices in Vital America (VIVA) from 1973–76, was among the last group of Americans to leave Saigon on August 1, 1976.

Mr. Mielke had several reports on Americans held in Indochina to relate to the select committee. He reported that on several occasions after the North Vietnamese took Saigon on April 30, 1975, his Vietnamese wife had overheard conversations in Saigon between North and South Vietnamese women. These overheard conversations occurred in informal situations around the city—at the zoo, in a store, at the marketplace. Piecing together these fragmentary conversations, Mr. Mielke got the picture of an American community of some 200 men in North Vietnam.

> I was more or less the Honda guard while my wife did the shopping, and this was in the early days after the revolution when an American stood out like a sore thumb in the area that I lived in, and my wife overheard on a number of occasions from North Vietnamese women who had come down to begin a new life with family members they had not been with since 1954, and the conversation overheard by my wife was, "That's an American, we thought all the Americans were up North." * * * They also related to one another that there was an American community in North Vietnam, very near the Chinese border, with approximately 200 Americans, males, some had families, and they were not creating any problems for the locals in the area.
>
> They were all farmers, and to supplement their income some were basket-weaving, some were making sandals out of our abandoned Firestone, Goodyear and Silvertown tires, and they seemed to be quite content.
>
> So, I have no reason to disbelieve these stories. They did not tell my wife this directly, it was directed by conversation and observing me.[58]

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[57] *Ibid.*, p. 52. See also pp. 53–4.

[58] Select Committee Hearings, part 5. Mr. Mielke expressed great skepticism about the reliability of this information. In an interview he stated that he refused debriefing when he arrived in Bangkok from Saigon, saying he "had nothing hot". Further, he stated he would not have believed these stores if they had not been told him by his wife.

In a separate interview with the staff, Mrs. Mielke said she overheard conversations similar to this: (North Vietnamese to South Vietnamese woman) "You must oppose the

On the basis of his past experience, Mr. Mielke speculated on the composition of this group.

Other reports he heard concerned sightings of a group of Americans in the Sam Neua area of Laos and several reports on two journalists missing in Cambodia. Another report he considered highly reliable concerned the sighting of a number of Americans in Chau Doc Province of South Vietnam in December 1973.[59] According to Mr. Mielke, he had forwarded these reports to American intelligence agencies as early as December 1973.[60]

Mr. Mielke also noted that on three occasions, his wife had seen a Saigon television film featuring a man alleged to be American.

> It could very well be a Frenchman; they said American. He could very well be a Bulgarian in the area. They expounded on an American, Army, United States Army.[61]

The individual did not speak, but the Vietnamese narrative told how he had come to Vietnam, seen what the imperialist American government was doing, and joined the National Liberation Front.[62]

Finally, in his capacity as VIVA representative, Mr. Mielke and his wife had conducted interviews with Vietnamese and Cambodian repatriates and escapees, for any knowledge they had of U.S. or foreign personnel. From these interviews, the Mielkes gleaned no information on missing Americans, grave sites, or crash sites.[63]

SUMMARY

In its hearings, the select committee, by its selection of witnesses and the questions posed, investigated as thoroughly as practicable on a public level the possibility that Americans were still alive in Indochina. Over 20 witnesses with varying credentials were questioned thoroughly and in detail on that possibility.

The most obvious observation to be made on this testimony is that the witnesses disagreed on whether Americans were still alive. In this respect, the testimony probably represented on a small scale a cross-section of American public opinion. The number of witnesses who expressed a belief either way is far less significant, however, than the evidence witnesses offered in support of their belief. Unanimity of opinion that a number of Americans were still alive would still not make it true.

The salient observation to be made is that those who believed Americans were still held captive in Indochina could produce no evidence to susbtantiate their belief. They based their case on "gut feelings", statements made years ago by officials of various governments, and public documents that some Americans were known to have been alive at one

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Americans." SV woman: "You don't even know what an American looks like." NV woman: "Oh, yes I do. There are hundreds of Americans in North Vietnam." Mrs. Mielke said that conversations between North Vietnamese women and South Vietnamese women were fairly common, and that the South Vietnamese women were often poking fun at their less sophisticated Northern sisters. South Vietnamese jokes regarding North Vietnamese in Saigon were further described by Kerry Huebeck who departed Saigon August 1, 1976, and who also called Saigon the rumor capital of the world. See Select Committee Hearings.

[59] For the Chau Doc reports, see ch. V of this report.

[60] Select Committee Hearings.

[61] *Ibid.*

[62] In an attempt to identify this individual, Mrs. Mielke closely studied hundreds of photographs. See Select Committee Hearings Part 5.

[63] *Ibid.*

time in the countries of Indochina. Even the most authoritative witnesses, with access to the most recent intelligence reports from Indochina, could offer no confirmed or confirmable evidence that a single American was still held captive in Indochina.

On the other hand, it should be noted that even these same two authoritative, knowledgeable witnesses, General Walters and Dr. Roger Shields, refused to state with finality that every single American in Indochina is dead.

The results of the public testimony of Americans still alive and held captive in Indochina were, therefore, inconclusive to some extent. If the select committee trusted only in the assessment of the intelligence community, it could still only say that there was no evidence to support the belief that some Americans were still held captive in Indochina. Like the intelligence community, the select committee could not say with finality that every single missing American is dead.

The cumulative effect of this testimony was to erode the belief that large numbers of the 1,400 who had been MIA and POW are now alive in Indochina. The public testimony reduced the zone of credibility: if any Americans were still alive, they were very few in number. After the public testimony, there was left only a small hope that a very small number of Americans might be still alive. Further, independent investigations to supplement public testimony were clearly necessary and in fact were being conducted at the same time.

The conflicting convictions of witnesses further emphasized the need for evidence. One could not simply pick and choose among witnesses' convictions, especially in light of the intelligence community's inability to provide confirmed evidence and the growing body of evidence that numerous reports on Americans still held captive were only rumors, often the work of opportunists. It was the firm conviction of the select committee that MIA families and the American public had been misled too long and too often by charlatans, opportunists, intelligence fabricators, and publicity mongers, who preyed on the hopes and sorrows of patriotic citizens.

The public hearings focussing on Americans still possibly held captive in Indochina were important in several other respects. They clarified the difference between hopes that men were still alive and evidence that they had been alive at one time, years ago in most cases. In this respect, they drew attention to the need for an accounting and helped the committee pinpoint cases where the former enemy must know something about the missing American. They drew attention to the POW cases and the need to study them carefully, to determine if those still listed as POW by the Department of Defense had ever been known to be alive in enemy hands.

Finally, the public testimony stimulated other avenues of investigation, such as the incidence of injury in ejection from aircraft, the likelihood of survival in hostile circumstances, and a careful review of the process of classification.

CHAPTER IV.—COMMITTEE ANALYSES

During the course of its inquiry, the committee analyzed certain problems directly associated with the POW/MIA issue. Many of the findings appear in the text of these chapters where appropriate, but four of the subjects require special attention.

> *First*, those Americans who did not return from Indochina had been subjected to incredible difficulties in combat. If they were not killed or mortally wounded outright, they still faced the trauma of surviving terrible isolation in a dangerous environment or among a hostile populace. Either circumstance weighed heavily in the chances for survival.
>
> *Second*, public statements of Communist leaders are often cited as the basis for arguments that Americans are still held as POW's. It was imperative, therefore, that those statements be studied carefully with an eye toward assessing their reliability or purpose.
>
> *Third*, one of the most misunderstood and controversial aspects of the POW/MIA situation has been the amount, kind, and validity of information contained in the case files of the missing men. The committee found it necessary to review a significant number of cases, both individually and collectively. In particular, all of the POW cases and a significant number and cross-section of other cases were reviewed in depth.
>
> *Fourth*, in order to maintain proper perspective, it was determined that the fighting in Indochina could not be viewed in a vacuum, but that a comparison with other hostilities was needed. Only by studying that war in light of other relevant hostilities can the current problems be evaluated fairly.

This chapter, then, sets forth the committee's principal analyses as they relate to the foregoing topics.

DIFFICULTIES OF SURVIVAL

Besides statements on survivability expressed in open testimony and as part of committee investigations, a separate analysis of the difficulties of survival for missing airmen is in order. Eighty-one percent of Americans missing in Southeast Asia are airmen. The circumstances of their loss, as well as the survival experiences of those airmen who did return home alive, show that very few, if any, missing airmen may reasonably be expected to have survived.

There is a strong indication that over three-fourths of the missing airmen went down with their aircraft.[1] Given the lack of emergency

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[1] According to an exhaustive JCRC study prepared for the Select Committee, only 179 missing airmen are known to have ejected in all of Indochina. Even allowing for a large number of unknown ejections, the proportion of parachute ejections remains very low. Most of the documentation for material contained in this section was prepared by Bio-Technology, Inc. for the Office of Naval Research. These include "A Review of Problems Encountered in the Recovery of Navy Aircrewmen Under Combat Conditions", "Aircraft Escape and Survival Experience of Navy Prisoners of War", "The Biomedical Aspects of Combat Aircraft Escape and Survival for Navy Prisoners of War", and "Biomedical Aspects of Aircraft Escape and Survival Under Combat Conditions".

Much of the material was also presented by the Life Sciences Division, Directorate of

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landing sites in operational areas, the fact that most of these aircraft had been struck by enemy fire and the fact that most of these aircraft were carrying explosive ordnance and fuel, it is reasonable to expect that few, if any, of these men survived. In cases of engine failure, as opposed to enemy fire, pilots would have tended to ride the aircraft down if terrain permitted, whereas ejection was the logical choice over harsh terrain such as triple canopy or karst. In either case, the choice was not pleasant and the results could be disastrous.

Of those who were able to bail out, research indicates a high probability of a major injury as a result of aircraft ejection.

> 400 knots indicated air speed: The initial forces were extremely violent as if I had hit a brick wall. I thought I would never stop tumbling. The opening chute shock was extremely violent and for a brief moment I did not know where I was. I finally figured out that my helmet had rotated 90 degrees down (forward) and that I was looking inside my helmet at the pad that normally sits on top of one's head. My O2 mask was jamming my neck in a choking manner but was still attached to my helmet. I had severe pain in my right hip and lower right back. My MK3C flotation gear was hanging out of its covering.[2]

At higher speeds the danger was compounded. A comprehensive Navy study indicated that 83 percent of their returned airmen who exited at 550 knots or over sustained a major injury.[3]

Research further indicates that returned Navy POW's sustained a 38 percent major injury rate.[4] A major injury, according to their studies, is "any injury requiring 5 days or more hospitalization and/or 'sick in quarters'." [5] Given the general lack of adequate hospital care in the combat area, it is a credit to American flyers that as many survived these injuries as did. It must be pointed out, however, that the high incidence of major injury among returned airmen does not speak well for the chances of those who did not return. An Air Force study of life support equipment addresses this subject as follows:

> It is important to remember that these reports come only from survivors. We know little or nothing of those who received fatal injuries during their ejection/bailout attempts. Also, it seems unlikely that many of those who incurred really severe ejection injuries were able to withstand the rigors of capture and confinement. We have no information on these individuals either.[6]

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Aerospace Safety, Air Force Inspection and Safety Center, Norton Air Force Base, California. These include "Southeast Asia Escape. Evasion, and Recovery Experiences—January 1962–December 31, 1971", "In Flight Experiences of Southeast Asia Prisoners of War Returnees", "Ejection Injuries in Southeast Asia Prisoners of War Returnees", and "Use of Life Support Equipment by Aircrews Captured in Southeast Asia".

These studies have been reproduced in parts 2 and 3 of the Select Committee Hearings and will be footnoted simply as "BioTech Report" or "Life Sciences Report", as appropriate.

[2] BioTech Report.

[3] *Ibid.*

[4] *Ibid.*

[5] *Ibid.*

[6] Life Sciences Report.

Descent also posed problems to many airmen. Unconsciousness was particularly troublesome. A biomedical report of Navy airmen indicates that 9 percent of the recovered group and 16 percent of the POW group reported being unconscious or dazed upon egression from the aircraft. "Fortunately," the report continues, "most of these individuals came down over land or regained consciousness prior to landing in the water. There are no statistics indicating how many did not regain consciousness or had major injuries to both upper extremities, landed in the water, and drowned because of inability to inflate life preservers or clear themselves from parachute entanglements." [7]

Lack of vision was similarly a problem for some airmen, one of whom describes his experience as follows:

> 550 KIAS (knots indicated air speed) ejection was via face curtain. Upon ejection, feeling was much like jumping out of a car, at speed, into a wall. Initial bewilderment and loss of vision were first reactions along with considerable pain on right side. First two minutes or so were spent hyperventilating in an attempt to regain vision.[8]

Another problem of descent was the fact that many parachutists received ground fire. The same batteries which downed the aircraft, plus additional enemy units in the area of descent, made this a dangerous event. As reported in one Air Force Study, "It was not unusual to take a few rounds from enemy forces in the area. * * *" [9]

The problems of surviving parachute landings presented another problem. Besides the frequent leg injuries substained in landings, over 30 percent of returned Air Force POW's landed in trees.[10] 40 percent of Air Force injuries were sustained upon landing.[11] These are highly significant figures, for the majority of MIA airmen are Air Force.[12]

A separate analysis of evaders recovered by the U.S. Air Force indicates that slightly over one-half of those parachuting over land came down in heavily wooded areas, and that in 46 percent of these cases the survivor became hung-up in a tree, some suspended as much as 200 feet in the air. The problem of climbing down from such a predicament would undoubtedly be complicated by injuries received in exiting the aircraft. In addition, getting hung up posed many problems such as loss of circulation, loss of mobility in the extremities, and further injury during attempts to reach the ground.[13]

Still another factor enhancing the danger to parachuting airmen is the fact that an estimated 15 percent lost their headgear during ejection.[14] As any parachutist knows, it is vitally important to protect the head during landing.

The probability of suffering some sort of injury at each point described above, compounds the difficulties of surviving either escape and evasion or capture and prison. In particular, injuries involving cuts in the skin spelled great danger to the individual American seeking rescue or evasion. Serious infections quickly followed when open wounds went unattended, and, except in the Hanoi area, the likelihood of receiving any medical care was remote.

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[7] BioTech Report.
[8] *Ibid.*
[9] Life Sciences Report.
[10] *Ibid.*
[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*

The record of American servicemen's ability to escape and evade to freedom in Indochina is not particularly encouraging. From 1961 to 1973 only two Americans in Laos ever escaped successfully and evaded to freedom. In South Vietnam during the same period, there were 27 such successes but there were none from North Vietnam or Cambodia. The record of rescued or returned POW's also indicates the inability of American servicemen to evade for long. About 90 percent of Navy POW's were captured within an hour of shootdown.[15] Air Force data indicates that 65 percent of their POW's were captured within 2 hours.[16] Of 209 reporting Air Force returnees, only six avoided the enemy for more than 3 days. "One, who was captured immediately, escaped and evaded for 2 weeks before being shot and recaptured."[17] Recoveries were likewise very quick. Through February of 1973 the Air Force reported a total of 2,541 combat rescues.[18] Indications are that three-fourths of these occurred within 6 hours of the incident. In summary, there is very little evidence of Americans surviving for any length of time once having been shot down.

Survival was complicated by thirst, which was reported to be a common phenomenon among survivors.[19]

> Nearly all who were forced to leave their aircraft in Southeast Asia expressed a profound need for water.
>
> The need for adequate water cannot be overemphasized.
>
> All aircrews should carry water.

If thirst was so prevalent among rescued airmen and returned POW's who were evading for short periods of time, how much more it must have plagued any serviceman trying to reach freedom. Dieter Dengler, one of the very few ever to escape and evade to freedom, cited thirst as causing him to pass out, and later, in seeking water, to be captured and hung upside down from a tree.[20] Ernie Brace recalled a similar experience:

> I ran out of water, my tongue and lips were swollen to the point I couldn't eat any more pomelo and I made the decision to strike out to the south and try to find more food and water. I was recaptured near a village that night while attempting to steal some food.
>
> I was taken to another camp, where I saw no other prisoners. They held me until the unit I had escaped from came to claim me near morning. A severe beating followed my return. Stocks were placed at the foot of my new bed board and an iron hoop was fitted around my neck, which would be pinned to the bed board. Food was reduced to minimal and I was kept in the pinned down position about 2 weeks. When I did urinate there was globules of fat and blood in my urine. I could

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[15] BioTech Report.
[16] Life Sciences Report.
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] Dieter Dengler, "I Escaped From a Red Prison", *The Saturday Evening Post,* December 3, 1966.

> not walk when a new officer came to interrogate me about my escape.[21]

An incident in Dengler's story poses still another danger encountered in evading—the strong possibility of being killed while trying to avoid detection by hostile natives or soldiers during the movement to freedom.

> Suddenly a black-haired guy in a loincloth started running toward us. He carried a long machete—curved at the end. "Amerikali, Amerikali," he yelled. We nodded our heads and mumbled, "Sentai, Sentai" ("hello, hello"). But the man kept running, I jerked back and tried to stand up.
>
> His knife was already moving through the air, thuk, thuk. The first blow hit Duane on the leg the second cut into his shoulder just below the neck. He screamed, and I threw up my hands as if to say "No." I knew Duane was dead, but I couldn't grasp it; I just stood there with my mouth wide open. Then he swung at me. The tip of his knife missed my throat by half an inch. I don't know where I got the strength, because I moved man, I really moved. I turned around and hit the bush and ran up a gully, and my legs didn't even hurt anymore.[22]

Howard Rutledge, an airman downed over North Vietnam, recounts a similar experience in his book *In the Presence of Mine Enemies.* Upon landing, he was attacked first by a man waving a machete and then by a crowd which showered him with blows to his head and shoulders from their bamboo clubs.[23]

These are but a small sample of the type of critical danger faced by a downed airman. It cannot be overemphasized that it was a hostile environment, and that the airman faced extreme danger from hostile forces and population who viewed him as their enemy.

Even if captured, however, the danger to the serviceman's life remained acute. The record of Vietnamese Communist authorities indicates that 10 percent of those they held died in captivity.[24] In addition, it is not known how many more died of wounds or mistreatment prior to entering the DRV "system."

A Navy survival study suggests many died of wounds and lack of treatment.

> Q. One of the big questions that came up with the release was the fact that there was not a single amputee among the returnees. Based upon your professional experience, how do you explain that?
>
> A. I haven't yet seen a list of those who didn't come back and why they didn't come back, medically. One has to have a feeling that those, particularly in the southern camps, who were so sick that they might lose a limb simply failed to keep up with the Viet Cong in their moves and they are not here.

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[21] Select Committee Hearings, part 3, pp. 168ff.

[22] Dengler, *loc. cit.*

[23] Howard Rutledge, *In the Presence of Mine Enemies 1965–1973* (Pyramid Pub., New Jersey, 1975), pp. 13–21.

[24] Not only were there 64 Americans on DRV and PRG "Died in Captivity" list, but there are several additional prisoners suspected of having died in their hands.

> That is an impression, not a fact derived from any of these figures. This would be one of the explanations for their not being here. What we're seeing here are survivors. We don't see those who didn't live. We know from what the prisoners of war have told us that there were many who did not survive.[25]

Commander Coker also answered this question:

> Why are there no amputees? There's no way in hell an amputee could live. No way. To do it would take an absolute miracle. Not because of loss of blood; not because they didn't get medical attention; they could do everything in the world for him, and nearly everything else in the world being equal, he would live, but infection is going to kill him. I would not even look for an amputee.[26]

Dr. Henry J. Kenny, select committee professional staff member, while serving with native forces in Indochina, witnessed a man die from a traumatic amputation almost identical to one he later received while serving with American forces—due to the impossibility of providing immediate and sufficient medical attention in the remote jungle areas of South Vietnam.

The problem of survival in captivity is compounded by inadequate medical or nutritional care. Drinking water, especially outside Hanoi, was likely to be impure. River fluke, malaria, and other diseases are common in Indochina. In Laos, life expectancy is only 35 years.[27]

Torture, such as that described here by Dengler, presented still further dangers to survival:

> They put a rope around my legs and tied my hands behind my back—so tight that after a while my hands were completely numb. Then they hung me upside down from a tree. They kicked me in the face and whipped me until I passed out. When I came to, I was lying on the ground. One of the guards hung me upside down again and shoved a large ant hive in my face. Thousands of little black ants started biting my nose and eyes and mouth. I think I screamed for almost a minute before I passed out again.[28]

Insanity was another threat to life:

> A lot of guys were driven insane. And there's reason to be driven insane. It was a helluva battle for all of us not to go insane. Some guys did not quite make it—they're not totally insane in the sense of a straitjacket, although we had at least two cases of that—but they are so bad that the mind started doing funny things. They may kill themselves. They may stop eating. They just might go off in some oblivious world and just not care about anything. Not take care of their hygiene. Then if the guy loses a lot of weight and gets sick and dies, then you can say he died from natural causes. Well, if that's your opinion, you go ahead and have it. As far as I am con-

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[25] BioTech Report.

[26] Select Committee Hearings, part 2, pp. 103.

[27] Area Handbook for Laos, p. 32.

[28] Dengler, *op cit.*

> cerned, the North Vietnamese killed him because of what they did to his mind. They put him in that position. Well, we lost a few guys—this is a handful—5, 10—I'm not being real specific, but it's a small number. There's only going to be maybe 3, 4, 5 percent that died this way all told, so we lost a few there.[29]

Finally, attempts to escape could easily result in death. For example, Ray Schrump told of a man shot and killed on an escape attempt. Ernie Brace recounted his personal experience in escaping:

> I attempted to escape from the stocks on a windy night. Although I got out of the stocks and out of the cage I was recaptured before I could get clear of the camp. Punishment was 7 days in a hole, buried up to my neck in dirt. I went out of my mind for about 3 weeks after being taken out of the hole. From this day on I spent 24 hours a day in stocks with my neck tied to a post in a sitting position by day, and tied down to the bed by night.
>
> In September 1967, I was caught at night with my ropes loose. I wasn't trying to escape, my feet were still in the stocks. I was beaten, taking a severe kick to the head. A week later I developed a semiparalysis which gradually crept through all my extremities. I then lost bowel control. Since I could not walk and I smelled so bad they would not take me down to the stream for a bath. I went from September 1967 to March 1968 without a bath or haircut.[30]

The experiences of rescued airmen and returned POW's does little to contribute to the belief that many airmen now missing in Southeast Asia could have survived. Indeed, the record indicates that possibility as very slight. Death could readily occur at any point in a scenario: from the initial enemy fire on the aircraft, as a result of secondary explosions or fires within the aircraft, or during ejection, descent, or landing. If an airman survived these hazards but was injured, the possibility of surviving capture or imprisonment was markedly decreased. In addition, the odds for survival dropped as the distance from Hanoi increased. Again it must be emphasized that the data herein presented is based upon those who did return. This is not to deny the possibility of survival for those who did not return, but only to point out that the evidence does not encourage belief in this possibility.

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[29] Coker, *op cit.*
[30] Brace, *op cit.*

COMMUNIST STATEMENTS ON POW'S

Early in its tenure, the select committee perceived that several MIA next-of-kin believed or hoped their missing member was alive because of statements made by Communist officials. Those statements were designed to create the impression that information concerning the missing could be made available if only the American Government would conform to certain political, military, or economic conditions. Cleverly included in many of the responses was the intimation that the MIA could be alive.

The select committee, therefore, undertook an analysis of Communist statements regarding American POW's and MIA's. Reports of MIA family member discussions with Indochinese Communist officials were examined, as were the statements of these individuals to American officials and to the media.

This investigation reveals that Communist statements regarding Americans missing in Southeast Asia have varied considerably over the war and post-war years, but have always served the political objectives of their spokesmen. The result has been a perceived ambiguity on the part of the families of our missing men, frustrating their efforts to resolve the question of whether their missing relative was alive.

It is clear that Communist statements cannot, by themselves, be considered valid sources of information regarding the status of missing Americans. In conjunction with further information, such as detailed information pertaining to an individual and his crash, these reports can, and have, indicated the status of a missing man. The self-serving propagandistic nature of these reports, however, militates against accepting them as valid evidence without further information. A review of Foreign Broadcast Information Service (FBIS) reports of Communist radio broadcasts and news releases, illustrates this point.

During the war, Communist broadcasts and the news media repeatedly referred to the downing of U.S. aircraft and the capture of the pilots. Some of these reports were accurate; many were not. During the war in Southeast Asia, North Vietnam claimed to have downed 4,181 aircraft, whereas U.S. records show only 1,108 were ever lost over the North. The Pathet Lao claimed 2,505 U.S. aircraft downed over Laos, while actual U.S. losses totaled 601. Similar exaggerations were made by the Khmer Rouge and the PRG.[1]

In December 1969, Col. Gen. Van Tien Dung, Chief of Staff of the North Vietnamese Army, claimed the United States had lost 20,000 planes in the Vietnam War.[2] North Vietnamese claim to have downed 32 B-52 bombers as of December 20, 1972, at a time when the United

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[1] Foreign Broadcast Information Service, June 26, 1976, p. 15 for Laos, and Jan. 17, 1973, for North Vietnam. DOD report to the select committee for U.S. losses.

[2] Under the Party Banner, Vietnam's Military Act has constantly developed and triumphed, in Vietnam Documents and Research Notes, No. 71, p. 2.

States listed four B–52's lost as a result of the war in the North.[3] These claims are cited to show the nature of much of the information emanating from Communist broadcasts and news media, especially during the war.

Col. Soth Pethrasi, Pathet Lao spokesman in Vientiane, on September 13, 1968, stated:

> Our forces have already shot down more than 800 of these [American] aircraft. They have captured several dozen American airmen.[4]

In actuality, by that date, U.S. records show that 101 American aircraft had been downed in Laos since January 1, 1961.[5] This is only one-eighth of those claimed by Pethrasi. If a similar ratio were applied to "four dozen allegedly captured American airmen", theoretically, it would mean that during this time, only six Americans had been captured in Laos.

Similar claims reached Western newsmen and family members later in the war. One frequently cited source of such claims was Australian journalist John Everingham.[6] Mr. Everingham was captured and held in Laos for 29 days. Pathet Lao troops detaining him said that they held as many as 200 American prisoners. Everingham, however, was not an eyewitness to any American prisoners. In correspondence with the Select Committee, he stated:

> I was told different things by different soldiers and it was obvious that some of them were most interested in impressing me. For example, one mentioned 200, yet I did not believe it at all. * * * I believe beyond a shadow of doubt that there are no remaining POW Americans still alive in the country.[7]

Exaggerations for domestic support of the war and propagandistic efforts to dissuade the United States from continued bombing motivated North Vietnamese broadcasts claiming that they had shot down numerous "air bandits" and "captured their pilots".[8] Such broadcasts, unless substantiated by U.S. records, cannot be viewed as evidence that the man was captured alive or dead. Without corroborating evidence, the accuracy of such reports is subject to grave doubts. For example, the names of four American servicemen were broadcast over radio Hanoi on November 21, 1967, indicating that they were "captured in Haiphong".[9] A radiophoto monitored in Warsaw, showing the Armed Forces ID cards of these men, establishes beyond a doubt that North Vietnam can account for these men.

It does not, however, establish that these men were captured alive.[10]

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[3] This and many other examples may be seen in the Foreign Broadcast Information Service, "Trends in Communist Projection", declassified copy of which is in the Committee files. Unfortunately, 11 more B–52's were lost during December.

[4] AFP Paris, in English from Vientiane, Sept. 13, 1968.

[5] Information from Select Committee records.

[6] Letter from John Everingham to select committee.

[7] Letter to John D. Burke, staff assistant to the select committee, dated May 27, 1976.

[8] Conclusion based on a review of over 100 FBIS reports available in the committee records.

[9] Vietnam News Agency, Hanoi. No. 716.

[10] This incident involved two Navy F–4 aircraft. The pilot of one, and the radar intercept officer of the other, were captured alive and released in Operation Homecoming. The other pilot and radar intercept officer were never seen by other Americans after the shootdown, they never entered the Communist POW camp system, and no further credible information has been received concerning them. During hostilities, information from sensitive sources, later found to be erroneous, indicated both missing men, Estes and Teague, were prisoners of the North Vietnamese.

It must be borne in mind that this was the same period in which Gen. Vo Nguyen Giap was publicly bragging that 2,300 fighter aircraft of the U.S. imperialists have been shot down and thousands of U.S. pilots have been annihilated or captured in the North.[11] The number of downed aircraft claimed by Giap was five times the actual at the time.[12] The North Vietnamese later denied that the two men, Navy Lieutenants junior grade Estes and Teague, had ever been captured in North Vietnam.[13]

A second source of information, and one equally frustrating to the families of missing Americans, centers on statements made by Communist officials to visiting families. These statements typically listed a multitude of political, economic, or administrative conditions which the Government of the United States would have to fulfill before the Vietnamese or Lao would provide information on prisoners of war and missing in action. In November 1969, for example, Col. Soth Pethrasi responded to appeals of MIA wives by stating:

> There can be no letters and no information until the Americans unconditionally cease this special war.[14]

In 1972, Prince Souphanouvong of the Pathet Lao was quoted as saying that U.S. prisoners will be released if the United States stops the bombing.[15]

After the early 1973 release in Hanoi of nine American prisoners who had been captured in Laos, Pathet Lao officials continued to stipulate conditions for the provision of MIA information. In May 1973, Col. Pethrasi told National League Counsel Charles Havens that he could tell him nothing new "because there are no more American prisoners in Laos, and the accounting of the missing must await the formation of the coalition government".[16] In October 1973, Col. Pethrasi told three League of Families' representatives that 60 days after the signing of a coalition government information would be available.[17] A followup by the U.S. Embassy in Vientiane further revealed that Soth Pethrasi was linking MIA information to formation of the Pathet Lao-Royal Lao Joint Commission to Implement the Agreement (JCIA).

> Soth replied that since JCIA had not yet been formed, no information could be passed. Once JCIA began meeting formally, it would begin deliberating timetable for implementation of various provisions of the Protocol, including Article 18(c). But priorities had to be established. First priority to LPF was neutralization of Vientiane and Luang Prabang, second was formation of coalition government and

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[11] Vo Nguyen Giap, DRV Defense Minister, "The Big Victory: The Great Task", in FBIS Daily Report (Asia and Pacific), Oct. 16, 1967, p. 6. Figures were cited as of Sept. 14, 1967.

[12] There were only 496 aircraft downed over North Vietnam at the time cited.

[13] The North Vietnamese provided Prime Minister Palme of Sweden with a list of 210 Americans lost in North Vietnam. The list included an entry for LTJG Estes, stating in French, "N' a jamais ete capture au Nord V.N." (Never was captured in North Vietnam.) Also in late 1970, the North Vietnamese gave Cora Weiss a list of 112 Americans lost in Southeast Asia, which indicated that LTJG Teague never was captured in North Vietnam.

[14] Quote by Arnold Abrams, in the Far East Economic Review, Nov. 20, 1969.

[15] See League #47.

[16] Charles V. Havens III, Memorandum to the Board of Directors, National League of Families, May 18, 1973.

[17] Pethrasi statement to Mr. George Brooks, Mrs. Barbara Lewis, and Mrs. Helen Sadlen, Oct. 19, 1973, as noted in State message of Oct. 30, 1973.

> joint national political council. Embassy officer objected that obviously first priority intended in Protocol was exchange of information on POW's and DIC's. Timeframe for that process was explicitly linked to finite date of signature of Protocol, not unknown date of formation of government. Soth replied that process of exchange of such information would begin after JCIA began meeting formally, and would not await formation of government. However, this question would have to follow other more urgent matters on JCIA Agenda.[18]

As late as April 1975, Col. Phao Boumiphal, Pathet Lao representative on the MIA Subcommittee of the Joint Committee to Implement the Agreement, told four League members certain priorities needed to take place before an accounting for American missing could be considered. He specifically referred to the establishment of a demarcation line between Pathet Lao and Royal Lao forces and to the resettlement of refugees in local areas, including their planting of crops.[19]

The major conclusion one must draw from all these statements is that they promised much but provided little. Conditions stipulated during the war in Laos, such as the cessation of the bombing and the "special war", were followed by additional conditions after the war. Throughout hostilities, the Pathet Lao created the impression that information on MIA's and POW's was available, but that it would be produced only when conditions stipulated by the Pathet Lao had been met. Unfortunately, much the Pathet Lao stated regarding live prisoners during the war must be interpreted in this light. Stated and implied references to large numbers of prisoners during the war were vehemently denied after the war. In April 1973, for example, Soth Pethrasi was asked, "Is it possible that there may be more prisoners in remote areas about which you previously knew nothing?" Col Pethrasi replied:

> It is not possible. First of all, we do not recognize your list. All who were captured have been released. They came to massacre us and we had to defend ourselves. If they reached the ground alive, they could still die without ever being found. But if they were captured, they were released. If they wanted to stay alive, they should have stayed in the United States.[20]

Hope did not die with these statements. In June 1973, Col. Vincent Donahue and Mrs. Barbara Smith visited Laos and spoke personally with Col. Pethrasi asking:

> In January 1971, you told Col. and Mrs. Donahue when they came to see you at that time that you had many American prisoners—that they were a burden because they had to be fed and guarded. Do you remember that meeting?

Col. Pethrasi replied:

> I do not recall exactly what I've told Col. Donahue about the POW's. However, it is quite possible that I may have told

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[18] Excerpts from Embassy cables.

[19] Patti Sheridan, Ann O'Connor, Sue Cook, and Carol Bates, "Report of Trip to Laos", Mar. 24–Apr. 8, 1975.

[20] Havens, *op cit.*

> him at that time there were many POW's in the PL hands. But, it has been a long time since January 1971, chances are that some POW's may have died in captivity due to illness caused by various diseases. As far as food ration is concerned, all POW's regardless of nationality are equally and humanly treated. But, as everyone knows Laos is a poor and small country and food provision in the jungle presents a difficult problem. Every PL has to learn how to survive on difficult times especially while the war still goes on. So, the food that we provided to the POW's may not be adequate to keep them in good health and therefore they may have taken ill and died. * * *
>
> Both this position and the statements I made during our previous meetings may seem inconsistent or illogical to you. But, I like to explain that days and months have gone by since the time we met and one cannot expect to see that all prisoners captured during the past 9 years survive till now. Like I said earlier some POW may have died for lack of adequate nourishment or lack of body resistance to innumerable diseases (i.e., malaria, typhoid, cholera, etc.).[21]

In further response to questioning, Pethrasi stated that all American prisoners had been transferred to Hanoi and released. He repeatedly denied that the Pathet Lao held any American prisoners.[22]

With the exception of admitting they had later captured Emmet Kay (held from May 1973 to July 1974), Pathet Lao officials maintained the position that they held no American prisoners.[23] They reiterated this position under questioning by members of the select committee in December 1975, in Vientiane saying that all Americans had been released in 1973 and that no more MIA's were alive in Laos.[24]

It would appear, in retrospect, that wartime statements were nothing more than self-serving propaganda designed to end American bombing and force a U.S. withdrawal from Laos. Post-war statements suggest the American prisoners who were held by the Pathet Lao did not survive. Statements that "they should have stayed in the United States," followed by denials that they hold any POW's, do not speak well for the fate of the few who were in their hands.

Like the Pathet Lao, the North Vietnamese and Viet Cong openly admitted having large numbers of U.S. prisoners during the war. They also used them for propaganda purposes. Public presentations of U.S. prisoners were conducted in 1966 and 1967 as a matter of policy. A large group of American prisoners was paraded through the streets of Hanoi in August 1966. A year later a group was paraded through local villages in South Vietnam. Stated purposes of the latter included: (1) propagandizing victories, (2) arousing hatred against Americans, and (3) infusing the masses with "the spirit of fearlessly fighting and defeating the U.S.".[25] North Vietnamese prisoner releases of three Americans each in April 1968, February 1969, August 1969, and August 1972, were carefully calculated to convince world opinion of their humaneness.[26]

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[21] Memorandum of Conversation between Soth Pethrasi and Lord Mayor Percy Hedgecock, Col. Vincent Donahue, and Mrs. Barbara Smith, June 20, 1973. In his testimony before the Select Committee, Col. Donahue told of Soth Pethrasi's earlier claims of holding large numbers of prisoners but neglected to relate the later denial.

[22] *Ibid.*

[23] In a statement to representatives of 53 families who traveled to Southeast Asia in October 1973, Pethrasi again said he knew of no American prisoners with the exception of Emmet Kay (who was later released). He speculated that a POW might possibly have been held in remote areas without his knowledge, but later categorically denied this possibility. Brooks, *et al. Op cit.* and State *op cit.*, Oct. 30, 1973.

[24] Memorandum for the Record, Dec. 23, 1975, Meeting of the House Select Committee on Missing Persons in Southeast Asia with Pathet Lao Chief of Cabinet Soubanh Srithirath.

Vietnamese post-war statements clearly put the DRV and PRG on record as holding no American prisoners. Article 8(a) of the Paris Agreement specifically stated:

> *Article 8:* The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed not later than the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured military personnel and foreign civilians on the day of the signing of this Agreement.[27]

The Protocol to the Agreement stated:

> The parties signatory to the agreement shall return the captured military personnel of the parties mentioned in Article 8 (a) of the Agreement as follows:
>
> > All captured military personnel of the United States and those of the other foreign countries mentioned in Article 3(a) of the Agreement shall be returned to U.S. authorities. * * *
>
> All captured civilians who are nationals of the United States or of any other foreign countries mentioned in Article 3(a) of the Agreement shall be returned to U.S. authorities. All other captured foreign civilians shall be returned to the authorities of their country of nationality by any one of the parties willing and able to do so.[28]

The Protocol also made provisions for Americans who might be held in categories other than prisoners, such as war criminals:

> ARTICLE 6
>
> Each party shall return all captured persons mentioned in Articles 1 and 2 of this Protocol without delay and shall facilitate their return and reception. The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced.

With these explicit commitments signed by the Ministers of Foreign Affairs of both the Provisional Revolutionary Government of South Vietnam and the Democratic Republic of Vietnam, and with the subsequent repatriation of prisoners from both Vietnams, the outlook for subsequent releases of American prisoners reached its nadir. Whereas, before the agreement, it was in the DRV and PRG interest to make false claims regarding American prisoners, any such claims subsequent to the agreement would contradict the signed agreement that all prisoners were to be returned by March 28, 1973.[29] The fact that Army Captain Robert T. White was returned on April 1, 1973, tends to indicate that any prisoner who may inadvertently have been held beyond the time specified for repatriation would nevertheless be repatriated when practical.[30]

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[25] National Liberation Front Report, "On Public Presentations of U.S. Prisoners of War", July 1967; in Vietnam Documents and Research Notes, No. 65, U.S. Embassy, Saigon, August 1967.

[26] See FBIS Reports for periods shown. The lapse in prisoner releases after 1969 may be attributed to revelations by returned POW's of what life was really like in the North Vietnamese prison system. In addition, the prisoners had organized to the extent that the "word was out" they would seek to return together.

[27] "Agreement on Ending the War and Restoring Peace in Vietnam", Jan. 27, 1973.

[28] "Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel", Jan. 27, 1973.

From April 1, 1973, to the present, DRV and PRG officials have continued to state that all American prisoners were returned and that no more Americans are being held in Vietnam. A sampling of these statements is as follows:

> (1) In July 1973, Col. Vo Tho Sen, head of the PRG delegation to the Four Party Joint Military Team in Saigon, told Mrs. Gloria Coppin and Mr. Steve Frank of Voices in Vital America, that the PRG "had released all American prisoners." [31]
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> (2) In October 1973, Mr. Khai, Second Secretary of the North Vietnamese Embassy in Paris told a delegation of League members that "they had returned all live POW's, that no POW had ever been taken across borders into another country and that until South Vietnam gives up their military and political prisoners they cannot possibly begin to account for our men according to Article 8(b)." [32]
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> (3) In September 1974, Do Thanh, First Secretary of the DRV Embassy in Paris, wrote to League representative M. Salvatori Mascari that "we have returned to the U.S. all captured U.S. military and civilian personnel." [33]
>
> (4) In March 1975, DRV Foreign Minister Nguyen Duy Trinh wrote to Senator Edward M. Kennedy: "Proceeding from our correct stand, good will and humane policy, we have returned to the United States all its captured military and civilian personnel. * * *" [34]
>
> (5) In July 1975, DRV Premier Pham Van Dong replied to a letter of 27 U.S. Congressmen, saying: "The DRV Government turned over to the American side all the American military and civilian personnel captured during the war. * * *" [35]

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[29] The Paris Agreement specified that prisoner exchanges would take place within 60 days of the signing of the Agreement, which occurred Jan. 27, 1973.

[30] Captain White had been held captive in an isolated prison camp in South Vietnam for a number of years, and was the only American prisoner to be captured during hostilities and to be returned after the 60-day deadline.

[31] Mrs. Gloria Coppin, Chairman, VIVA National Advisory Board Report, "Report on Trip to Southeast Asia", August 1973. Mrs. Coppin described the meeting as follows:
"We met at their headquarters at Camp Davis, which is an enclosed compound within the South Vietnamese Military Base in Saigon. Although they had about six military officers present, we spoke only to Colonel Son, the head of their delegation. We took along our own interpreter, a South Vietnamese man who was excellent. We had prepared separate sheets of information on about 20 men whom there was reason to believe had been captured, including pictures if available. We discussed the issue in general terms at first, asking why they had not accounted for all their prisoners. His answer was that they had released all American prisoners."

[32] Letter from E. Thomas to Scott Albright, entitled "Summary of Visit to N. Vietnamese Embassy", Nov. 1, 1973.

[33] Letter from Do Thanh to Mascari, Sept. 10, 1974.

[34] Congressional Record, 94th Cong., 1st sess., Mar. 17, 1975, pp. S4040–S4041.

[35] Letter of June 21, 1975; copy to Hon. Richard Ottinger in Committee files.

(6) In December 1975, DRV Vice-Foreign Minister Phan Hien and DRV Premier Pham Van Dong stated that all Americans captured in the war were returned to the United States just after the Paris Agreement.[36]

It would appear that these and other Vietnamese statements would establish beyond a reasonable doubt the DRV/PRG position on the question of live American prisoners. Since 1973, however, some statements by certain Vietnamese Communist officials could be interpreted ambiguously. Those statements may deliberately have been conceived to perpetuate lingering doubts that all missing Americans are dead. Vague statements, evasive responses, and mystic smiles or mannerisms giving rise to the impression that deep secrecy abounds in the POW/MIA arena were particularly prevalent in Vietnamese conversations with private groups of Americans, including MIA next-of-kin. These unofficial meetings were instrumental in perpetuating the agonizing uncertainty of these suffering Americans.

In September 1973, for example, Lt. Col. Trang, Deputy DRV Chief Delegate to the FPJMT, told five MIA wives and mothers that he would not discuss the cases of their missing family members until the DRV and PRG delegates were given certain privileges, immunities, and modalities by the United States and RVN delegations to the FPJMT in Saigon. According to one MIA wife:

> I asked if they were not using this information as blackmail. They said I must not say this or I would suffer the consequences. I asked what the consequences were and they would only answer that I would suffer the consequences and that I must not tell this to the press.[37]

In November 1973, MIA wives Carol Plassmeyer and Mary McCain met Col. Son, Chief PRG Delegate to the FPJMT in Saigon. Col. Son, who had previously stated that no live Americans were being held prisoner, replied to these MIA wives in a manner that showed he regarded the issue of the missing men as an instrument of PRG foreign policy. In her report of the meeting, Mrs. Plassmeyer states:

> Col. Son was there with four other men—one who took scrupulous notes during the whole conversation and another one who took about as many pictures, plus the interpreter and another man who seemed to be Col. Son's assistant. Col. Son started out by asking the purpose of our visit. We explained who we were, that we were relatives of men MIA in SVN and had come by ourselves at our own expense to ask his help in locating the missing men or obtaining any information about them. * * *
>
> We asked him if he knew of any men still alive—or if perhaps his men might know of some. He replied that "there were many things he'd like to tell us but it wasn't the right time" that the RVN disregarded the cease-fire, etc. We could not get any elucidation of the "many things he'd like to tell".

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[36] These remarks were made to Congressmen G. V. Montgomery, Richard Ottinger, Paul McCloskey, and Benjamin Gilman in response to their questions to the DRV officials in Hanoi.

[37] Susan Sullivan, Report to the Board of Directors of the National League, entitled "Observations on the Trip to Southeast Asia", Sept. 20, 1974.

> We asked him about graves of our men in SVN. He again blamed the fighting, said the RVN may have run bulldozers over the graves or dropped bombs on them. * * * Mrs. McCain asked about mail for Americans who might be prisoners. He refused this idea and went into another enumeration of RVN violations. We asked if he thought that Americans could still be out in the jungles—he answered that there was much fighting still going on and it was "hard to tell" now and we would have to wait until the situation was stable.[38]

In March 1975, Senator Edward Kennedy addressed the Senate regarding his recent exchange of correspondence with DRV Foreign Minister Nguyen duy Trinh.

> Mr. President, this past month Foreign Minister Trinh responded to my letter. He stated Hanoi's current view toward American policy in Indochina and developments in Vietnam, but regrettably his letter contained no specific information on MIA's.
>
> However, the Minister's letter seems to confirm that information is available on MIA's, and that, to quote from the letter:
>
> "The DRVN services responsible for getting information * * * continue their efforts in the hope that their work will help ease the anguish of the families of those still considered missing."[39]

The DRV again alluded to its efforts to obtain information on missing Americans in a letter from Premier Pham Van Dong to 27 Congressmen in June 1975:

> After the signing of the Paris Agreement, the DRV Government * * * gave directives to its responsible organs to endeavor to seek information on Americans considered missing in action. * * *[40]

It is clear from both these letters that the Vietnamese must have a considerable body of information which they could provide to the families of several missing Americans. But in both cases, the DRV official linked the provision of such information to political conditions. In the Nguyen duy Trinh letter, U.S. withdrawal of support for the Republic of Vietnam was emphasized:

> The Vietnamese people appreciate the growing trend in the press, political circles and even in the U.S. Congress to urge the U.S. administration to end its military involvement in South Vietnam and cease its military aid to the Nguyen Van Thieu group. This trend is an expression of the American people's traditional attachment to peace and justice, contributes to bring pressure to bear on the U.S. administration for a correct implementation of the Paris Agreement on Vietnam, and creates favorable conditions for the normalization

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[38] Report by Carol Plassmeyer, regarding her meetings with Communist Representatives in Saigon, Nov. 15, 1973.

[39] Nguyen duy Trinh to Edward M. Kennedy. *op cit.*

[40] Pham Van Dong to 27 Members of the U.S. House of Representatives, June 21, 1975.

> of relations between our two countries and for a good solution to the question of those still considered missing.[41]

In the Pham van Dong letter "U.S. contribution to healing the wounds in both zones of Vietnam" was linked to information on the missing-in-action.[42]

Finally, in June 1976, Do Thanh, First Secretary of the North Vietnamese Embassy in Paris, received a delegation of the Veterans of Foreign Wars, headed by Nelson C. Amsdill, Jr., Commander of Fraser Michigan VFW Post 6691. The delegation attempted to present to the Vietnamese a petition for information on U.S. Air Force Captain Robert Tucci and other missing Americans.[43] They left the meeting with a strong impression that Do Thanh had implied the North Vietnamese know the fate of Americans still alive and held captive.[44] This impression was evidently the result of Do Thanh's expression of concern for the "widows and non-widows" of missing Americans, which was interpreted to mean some Americans were alive (rather than interpreting "non-widows" as parents.) Do Thanh refused to elaborate on his statements. Instead, Do Thanh told the delegation they would not release information on missing Americans until the U.S. Government does something for Vietnam and that "the first news would be about Captain Tucci—if America cooperates".[45]

The following day, Do Thanh told both the Associated Press and the Select Committee that he had been misinterpreted. His specific words were:

> It was misheard. It is not true. The Vietnamese have long since returned all live POW's and do not hold any.[46]

Once again, the pattern of categorical denial of information was juxtaposed with subtle intimations that information on missing Americans could be made available if the United States agrees to the political and economic conditions stipulated by North Vietnam. Once again, the hopes of many families were raised only to be dashed when the Vietnamese were pressed to confirm or deny the implications of their insinuations.

And so the story goes. It is a sad story, marked by the frustrated hopes of American families seeking information counterposed to the obvious use of these families as pawns in a political game. The record indicates that Communist statements on this issue have always been designed to maximize their political, military or economic advantage, and that any regard for the feelings of the families of missing Americans is purely accidental.

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[41] Trinh, *op cit.*

[42] Dong, *op cit.*

[43] DRV officials agreed to the meeting but made it clear beforehand that they would not accept the 80,000-signature petition.

[44] The delegation consisted of Commander of Fraser, Mich. VFW Post 6691. Nelson Amsdill, Commander of Ben Franklin VFW Post in Paris. Col. Leon G. Turrou, Mr. Lawrence P. Zatkoff and Mr. J. Randy Sabo.

[45] J. Randy Sabo, Report of VFW Paris Trip June 25, 1976, and AP reports, June 4, 5, 1976. See also "The Macomb Daily". June 8, 1976.

[46] Associated Press, June 8, 1976, and telephone conversation of the same date with the Select Committee.

Review of Case Files

The most important single document pertaining to a missing serviceman is the case file maintained by the parent service. It is this same case file that many next of kin have studied either at the service headquarters or in Washington, D.C. at annual conventions of the National League of Families. The committee notes that many of the next of kin have expressed suspicion that the casualty files are not complete, that important information has been omitted, and that classified information has often been withheld.

The importance of the case file derives from two factors. First, it reflects the data upon which the initial status determination was based. Second, the case review which is mandatory by the 1-year anniversary of the date of loss, and any subsequent case reviews, is based on the accumulated information reflected in the case file. Thus, a serviceman's status—either POW, MIA, or presumed dead—hinges upon the information contained in the case file and the evaluation of that information by those who pass judgment on this status.

In view of the importance of the case file, with respect to the missing member's status and as the official depository for information on the individual, it was necessary for the committee to study a significant number of individual cases. Only in this way did the committee members familiarize themselves with the kinds of information available and the validity of that information.

Congress has vested the military secretaries with the authority and responsibility to adjudicate status of missing servicemen. For that reason no attempt was made by the committee to study each and every separate case. Conversely, it was important for the committee to study a broad cross-section of cases and it was imperative for the committee to form its own opinion whether or not any evidence exists that would suggest Americans are still being held as prisoners of war in Indochina.

PRISONERS OF WAR

When the select committee began its investigation, 36 men were listed as POW's. The logical assumption was that all had been captured by the enemy, interned in the POW camp system and, for some reason, had neither been returned alive nor declared by the enemy to have died in captivity. The committee undertook an inquiry into all 36 cases as a matter of priority.

Certain questions had to be asked. What were the bases for the initial classifications as POW and were those classifications appropriate in the committee's view? Did receipt of additional information after the date of the incident militate in favor of a change in status? Is there now any evidence or hope that any of the 36 men listed as POW are still alive? To answer these and other questions, the committee collected the service case file on each of the 36 men and conducted an exhaustive study of the material contained in those cases. Later, most of the cases were cross checked with the intelligence file kept at the

Defense Intelligence Agency to assure that no relevant information was overlooked.

As indicated in the following table, over one-half of those still listed as POW disappeared more than 9 years ago.

TABLE 1

YEAR IN WHICH POW'S WERE LOST

Year	U.S. Army	U.S. Navy	U.S. Air Force	U.S. Marine Corps	Total
1964				1	1
1965	2	2	2	1	7
1966			2		2
1967	1	8			9
1968	2	1			3
1969	3	1			4
1970	3				3
1971					0
1972	1	5			6
1973		1			1
Totals	12	18	4	2	36

The committee carefully reviewed the evidence upon which the initial classification of POW was based in each case and noted that in five cases the status was changed from MIA to POW, reflecting information received after the incident of loss. The status changes appear to have been appropriate in light of the reports received at the time, although in these specific cases the reports were in error, a fact not learned until after the repatriation of American prisoners in 1973.

It became readily apparent that the Navy had employed extremely optimistic standards for declaring that a downed aviator was captured. Generally, if a pilot parachuted and either waved during his descent or activated his emergency radio "beeper", the Navy considered him to be a POW. At least in retrospect, many of the Navy casualties should have been classified as MIA rather than POW, because of the hazards of landing and surviving in a hostile environment and the lack of positive information that the missing man had indeed been captured.

Results of an independent investigation of available information on the 36 listed POW's resulted in the evaluations in table 2.

TABLE 2

EVALUATION OF CLASSIFICATION—POW STATUS

Classification as POW by Parent Service	U.S. Army	U.S. Navy	U.S. Air Force	U.S. Marine Corps	Total
Includes 5 reclassified from MIA to POW	12	18	4	2	36
Committee Assessment of Proper Status:					
POW	12	10	3	2	27
MIA		[1] 7	[2] 1		8
KIA (BNR)		[3] 1			1

[1] Parachutes were seen in these cases, beepers were heard in most, but no voice contact was made, and the downed pilots were not seen alive on the ground.

[2] Seen to eject but no further communications. Six reports received since the incident indicate that a pilot was killed by indigenous persons at about the same time in same general area.

[3] Ejected at high speed at near-ground level and an inert form was reported by eyewitnesses under the parachute on the ground. A rallier since reported a similar incident (believed to correlate) in which the pilot was found dead. This officer was reported by the Vietnamese on September 6, 1976, to have died during his attack on North Vietnam (1965).

This aspect of the committee's inquiry was not intended to take issue with the Department of Defense concerning status. Instead, the committee was impelled to evaluate the likelihood that these 36 men were actually POW's. If there was hard evidence to prove that each of the 36 was a captive, a persuasive case could be made in international tribunals that the Vietnamese, Lao, and Cambodians held, and possibly continue to hold, Americans as POW's. The committee therefore considered it important to evaluate the evidence and form its own judgment of how many Americans were actually in the enemies' hands at one time as prisoners.

The committee considered a missing serviceman to have been a POW only if he was seen alive in enemy custody by a credible witness. The mere fact of having been in voice-radio contact with friendly aircraft did not meet the test; that person had not yet passed safely into enemy hands, and evidence shows that many Americans were killed during that delicate transition phase. Reports from "sensitive sources" were recorded in four cases, two of which were considered by the Navy as sufficient cause to change status from MIA to POW. In the other two cases, the flyers were classified POW at the time of loss, although it now appears that they never entered the formal POW system and may not have survived the shootdown. In all four cases, the "sensitive source" or the analyst was in error.[1]

A review of the cases showed that several men definitely were in enemy hands and were observed in captivity by at least one other American. A like number could have been alive in enemy hands if reports by indigenous escapees or witnesses can be believed. In more than a third of the cases, however, there is no evidence to support a belief that the aviator survived the incident of loss.

TABLE 3

COMMITTEE EVALUATION OF STATUS OF 36 POW'S

Statement of Evaluation	U.S. Army	U.S. Navy	U.S. Air Force	U.S. Marine Corps	Total
Definitely was alive in enemy hands	6	3	2	2	[1] 11
Possibly was alive in enemy hands	4	3	1		11
No evidence he was taken alive	2	12	1		14
Total	12	18	4	2	36

[1] In six cases, reports from indigenous sources indicate that the individual died in captivity. Another one was reported in 1973, both by the PRG and by returnees, as having died in captivity in 1967, but for technical reasons his case has not been reviewed. Still another defected to the Viet Cong in 1967, and he could still be alive in Vietnam. There is no evidence in the remaining four cases to suggest whether the individual is now dead or alive, but in no case did any of these four appear in a regular POW camp, and all have been missing for at least 6 years.

The chart above is based on a study of individual case files containing data compiled through November 1976, debriefings of returning POW's, and analysis of Communist processing procedures for POW's.

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[1] In three of these cases, the names of the missing aviators were entered into the Hanoi Hilton memory bank system as a query, asking if they had been seen. This translated eventually to an apparent, but erroneous, confirmation that the flyers were alive in a POW camp. In the fourth case, a letter sent by a POW was believed to contain veiled reference to a missing pilot. The POW actually referred to his son, who had the same first name as a missing squadron mate. Based on the analyst's mistake, the status of an MIA was changed to that of POW. As of the writing of this report, he continues to be listed as POW, although no definitive word has ever been received since his loss in 1967.

MISSING IN ACTION

The select committee studied MIA case files in the same manner accorded the POW files. Specifically, more than 200 individual files were drawn. The cases were held in the committee offices for varying periods of time so that they could be studied in detail. Cases in which presumptive findings of death had been rendered were included as were several KIA(BNR).

The committee was interested in the validity of the initial classification, the kind and amount of information acquired since the date of loss, and, as a matter of priority, the possibility that any of the MIA's could still be alive.

The MIA cases fall generally into three categories—

(1) those in which the circumstances of loss support some hope that the individual might have been captured;

(2) those in which there is no indication of the fate or whereabouts of the missing serviceman; and

(3) those in which an initial classification of KIA(BNR) would have been justified.

Initial classification as MIA was appropriate in the case of aviators known to have ejected from stricken aircraft. Subsequent analysis, however, has shown that the possibility of major injury or death on ejection, the dangers in landing, and the attitude of hostile populace significantly reduced the chances of survival.[2] In the case of ground personnel, some were reported by indigenous sources as having been led away by the Viet Cong. Reports of that nature offered some hope that the missing member was captured.

In a significant number of cases involving aircraft losses, the planes merely disappeared. Some were seen to descend through an overcast but were never again observed. Others failed to return from missions without broadcasting a "Mayday!" or otherwise communicating with monitoring stations or supporting aircraft. Electronic or photographic surveillance was flown over known or suspected crash sites or planned flight paths whenever possible, although in some cases the nature and fury of enemy resistance prevented effective reconnaissance.

In the case of ground forces, it was more difficult to ascertain circumstances of loss. Several men wandered off without explanation and have not been seen since. In other cases soldiers were badly wounded in fire fights with the enemy and were left behind when their fellow soldiers were driven off by superior fire power. Some in this category were declared POW at the time, others were listed as MIA.

In a substantial number of cases, the initial classification of MIA could just as easily have been KIA(BNR).[3] This observation is not made to condemn the Department of Defense or the combat commanding officer who made the initial determination. Rather, it is an observation that a great many of the decisions which could have gone either way tilted in favor of MIA status. In the absence of prima facie evidence of death the classification was normally MIA. This was particularly true in the case of multi-engine, multi-seat aircraft. For example, several aircraft with large crews were shot down over enemy territory. In some cases only one or two parachutes were observed; in other cases no parachutes or beepers were reported, and follow-on SAR efforts failed to disclose any sign of survival.

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[2] See p. 45 for a detailed discussion of survival.

[3] Status determination is often a subjective decision. Of the first 53 MIA cases reviewed by the staff, 40 could justifiably have been KIA(BNR) at the outset based on the circumstances known at the time and reinforced by information, or lack of any information, since the loss.

If even one crewmember was known or assumed to be alive, it was the usual practice to list all members as MIA, a logical decision since the identity of the possible survivor was rarely known. In more than 400 instances, a total absence of information on the actual loss resulted in classification as MIA, even though in most cases follow-on reconnaissance produced negative results.[4]

Sighting of one parachute from a two-seated aircraft also caused difficulty in assigning the initial classification. There was no standard color coding of parachutes to aid wingmates in identifying which crewman ejected. When both crewmen ejected but one was observed to be in dire straits, it was usually not possible to determine with confidence which was in difficulty.

THE SECURITY CLASSIFICATION PROBLEM

The committee received several complaints from next of kin who claimed that case files were not complete. Family members who travelled to Thailand and visited the Joint Casualty Resolution Center sometimes saw documents in the JCRC file which were not included in the case file maintained by the parent service. In other cases, next of kin believed that documents had been removed from the file of their missing member.

Classified documents also caused a problem and, in spite of protestations to the contrary by DOD officials, many family members still contend that classified information is being withheld.

It was principally to investigate these complaints that committee members visited the Defense Intelligence Agency in Arlington, Va. The DIA maintains case files on all missing Americans. Data is generally limited to intelligence information. Documents held by DIA duplicate those in the Service files, except that certain highly sensitive information is included in raw form. This aspect of intelligence processing is the most misunderstood. All information held by DIA is also held by the Services, including special intelligence (SI).[5]

This category of intelligence is closely guarded in order to protect sources and techniques as well as to deny actual or potential enemies the ability to evaluate the effectiveness of sensitive acquisition means. It is important to know that, with but a few possible accidental exceptions, all sensitive information that can be correlated to specific cases is included in extract form in the appropriate case files. The committee reviewed a large number of classified documents and found in every case that pertinent extracts were contained in the individual files.[6]

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[4] Assistant Secretary of Defense for International Security Affairs Memorandum, dated April 28, 1976.

[5] SI material constitutes a relatively insignificant part of the total accessions.

[6] Congressman Benjamin A. Gilman (R-N.Y.) took exception in one case to the paraphrasing of a classified message which, in his view, altered the meaning of the original text. That particular document is being reviewed by DIA.

Discrepancies attributed to the JCRC presented a different problem. It should be pointed out that the JCRC was essentially an operational unit assigned the task of investigating grave and crash sites.

In order to accomplish their mission, JCRC personnel were required to develop and maintain casualty files simliar to those held by DIA and the services, but with pronounced operational orientation. Information that would facilitate crash and grave site visitations and contribute to identification of remains was included in the JCRC files. It is important to note that the Center was not authorized or intended to make available to next of kin its working documents, the casualty files, which it had compiled. These files included opinions and subjective judgments of a number of analysts and did not necessarily reflect the same conclusions as the master file in the service personnel branch. JCRC personnel were neither trained nor equipped to deal with families on the same basis as were the casualty assistance personnel assigned that task in Washington, D.C. and at Randolph Air Force Base.

The committee learned of several unfortunate episodes that occurred when some family members gained access to working files in Thailand. In one case a wife was led to believe that her husband was in Hoa Lo prison in Hanoi when there was no real basis for such a belief. In the absence of information on the crash site, an administrative clerk or analyst recorded the grid coordinates of Hoa Lo as the last known location, presumably on the assumption that missing aviators would end up there if alive.[7]

Another incident involving the JCRC caused two families to mistrust the personnel representatives of the Air Force. On April 18, 1973, Air Force Captains Samuel L. James and Douglas K. Martin were attacking a target in northeastern Cambodia. The wingman last observed their F–4 at 7,000 feet and 350–400 knots. The last communication from Captain Martin was a report that he was "in to mark" a target. Neither the wingman nor search and rescue forces observed any parachutes or heard any emergency radio transmissions. An elongated crash site was seen 250 meters on line beyond the target. Communist radio broadcasts announced that an American plane had been shot down and the aviators were charred or consumed in the crash, although the reported date did not agree precisely with that of the incident. In the absence of any other data, both officers were classified MIA.

In August 1973 "a new and untested source" reported having seen three Caucasian U.S. military prisoners of war, clad in one-piece flight suits, who allegedly were being transferred from Cambodia to South Vietnam. The source stated that the three were airmen downed south of Phnom Penh in early July 1973. JCRC evaluated the report as follows:

> The information as presented precludes any definite correlation. Since early 1973 only two aircraft have been lost in Cambodia. Captain Samuel L. James, USAF (JCRC No. 4062) and Captain Douglas K. Martin (JCRC No. 4061) were flying an F4E in the area of YA153151 when their aircraft disappeared. Both men are carried as missing in action. Captain John J. Smallwood, USAF (JCRC No. 4071) and Captain

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[7] During a visit to the JCRC in November 1975, Dr. Henry J. Kenny of the committee staff was told unofficially that in many cases, location of loss for aviators was recorded as Hoa Lo if no other information was available.

> **Samuel B. Cornelius, USAF (JCRC No. 4070) were flying an F4E in the area of YA723732 when their aircraft disappeared. The causes of the disappearances of the aircraft are not known.**

Captain James' father later visited the JCRC and was shown his son's case file. Mr. James noted a reference to a classified document and he prevailed upon the JCRC commander to show it to him. Mr. James apparently placed more credence in the uncorrelated report than did the analysts, despite the fact that the crash site and reported sighting were separated by more than 200 miles. Analysts also noted that either target fixation or a fatal hit likely caused the crash. Further, a fallacious radio broadcast by the Khmer Rouge claimed that three American advisers had been captured in Cambodia in the same time frame. Analysts believed that the false broadcast had given rise to the sighting report on three flyers, a not unusual phenomenon.

The episode caused additional suspicion to fall on JCRC and, to an even greater degree, on the Air Force Personnel Branch at Randolph Air Force Base, Tex.[8]

This case illustrates one of the principal causes for distrust of service officials and the suspicion that classified or other pertinent information is withheld from next of kin. At the JCRC, where emphasis is placed on possible recovery all information that could possibly relate to a case is either included in the case or it is cross-indexed. The same is true of the DIA files in Arlington, Va. Information that is not directly correlated to a particular case, but which possibly could apply—even to a dozen or more cases—is included in the individual case files at JCRC and DIA. That is not generally true in the case of the service casualty files. The Department of Defense holds that interpretation of information and an assessment of its reliability is properly the task of professional analysts, not of untrained next of kin. The analysts can draw on computer banks of information and can equate new accessions to existing data. For these reasons, the service casualty file is the official file with respect to status determination. The JCRC and DIA files are working files which in many cases, contain uncorrelated or irrelevant data that is often known to be false.

Some next of kin have complained that on reviewing their missing member's case file documents which they had seen on a previous occasion were missing. Without specific identification of the documents in question, it is impossible to evaluate these charges. It is apparent, however, that some documents have been removed from files. In instances where information could apply to several individuals, the basic document was placed in each of the pertinent case files. Unfortunately, the custodians of files did not always indicate that the data could apply to several people. When a positive correlation was made, the document may have been removed from those files to which it no longer applied, but without notations being made to explain the administrative transactions.

The commanding officer of the JCRC was asked specifically whether any files had been purged. He replied that the only documents ever removed from case files were either duplicate copies or material found no longer to be relevant in a specific case.[9]

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[8] Mrs. Karen Martin testified before the Select Committee on May 26, 1976, and referred to Mr. James' visit to JCRC. Select Committee Hearings, part 4, pp. 94–95.

GORY MATERIAL

Committee members explored the delicate question, "Should gory material be shown to next of kin?" Officials at DIA pointed out that the services are responsible for compilation of the casualty files that are shown to next of kin and which are the basis for all case reviews. The services receive all general POW/MIA data and all data applicable to a member of that service. Normally all correlated or possibly correlatable information is included in case files, either in the original text or in extract form if security matters are involved. Thus, next of kin should be able to see all of the substantive information that pertains, whether classified or gory.

DIA officials pointed out one specific exception. Members were shown a classified report that had not, at that time, been included in the case file. The primary next of kin had requested, in writing, that she not be shown any gory information.

A North Vietnamese POW stated that several years earlier he had observed an American pilot hung up in the tree tops in a parachute, and that the local military unit had used the pilot for target practice. The Communist troops continued to shoot at the suspended aviator, now obviously dead, until his legs dropped off. The source indicated that the remainder of the corpus was beyond reach in the triple canopy and therefore was not removed at least during the period that he was in the area.

The next of kin was aware that a gory report existed which she had not seen. Recently, at her request, the report was shown to her. She expressed relief at knowing the full story.

The approximate date and location agreed with known data. There had been a second classified report in the file which, if true, could have applied to this case or to one other and which contradicted the circumstances described here. The second report was later positively identified by a returnee as applying to his case, therefore increasing the probability that the first report applied to this case.

UNCORRELATED DATA

DIA is the central repository for all intelligence information on POW's/MIA's. A large amount of information received since 1961 could not be correlated with any specific missing person, group, or incident. A vast agglomeration of uncorrelated material has accumulated in DIA for possible future use should it become correlatable due to new accessions. The committee examined several documents in that category and found no important fault with DIA's procedures in this regard.

Obviously it is beyond the capability of the committee or any similar investigative body to study and evaluate each of the hundreds of thousands of documents that have not been and are not likely to be correlated; however, hundreds of dedicated intelligence analysts have devoted years of labor to that end. Certainly human error exists; any subjective judgmental process includes some margin of error. The committee found that margin to be very small.

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[9] Department of Defense Procedures now call for retention of all documents in a case file, but with proper annotation when a document is determined to be irrelevant.

KOREAN WAR FILES

The select committee's inquiry did not include matters related to the 1950–53 hostilities in Korea. Throughout the committee's tenure, however, the subject of POW's in Korea was frequently interjected. Claims were often made that American POW's were held by the Chinese and Korean Communists for long periods after the POW exchanges of 1953 without our knowledge. These claims were the major basis for insisting that the Vietnamese and others are even now holding as POW's some Americans captured before 1973.

It was necessary, therefore, that the committee investigate the principal allegations stemming from the Korean police action.

The Kiba Case

Airman Steve E. Kiba was one of 14 members of the crew of an American B–29 reported missing on January 13, 1953. On January 21 Peking radio announced that the plane had been shot down over Manchuria and that all but three of the 14 crew members had survived and were captured. They broadcast the names of three of the living prisoners but did not provide the names of the dead. The U.S. Government undertook immediate efforts to obtain further information about the crew and to arrange for their release. Contacts on this subject took place primarily in Geneva. All 14 crew members were classified MIA.

On June 21, 1954, in response to a list presented by the State Department, the Chinese provided the names of the three who had died, stating that they had perished in an attempt to parachute from their aircraft on January 13, 1953. The Communists stated that they held a total of 15 U.S. Air Force personnel; the 11 remaining members of the B–29 crew and four other USAF fighter pilots. At that time the USAF changed the status of the three described as having died to KIA but continued to list the others as MIA. Letters were received later that year from all 15 prisoners (including Kiba), and on December 20, 1954, the status of the remaining 11 was changed to POW.

In November 1954, the Chinese announced that they had tried the 11 B–29 crew members as spies and had sentenced them to terms ranging from 4 to 10 years (Kiba received a four-year term). This was described in an article in *People's China*, dated November 16, 1954.

Throughout this period, the USG continued its efforts to arrange for the return of all these men. The four fighter pilots were released May 31, 1955. The 11 B–29 crewmen returned August 4, 1955, when they crossed the Lo Wu Bridge from the People's Republic of China into Hong Kong.

Upon his return and debriefing, Airman Kiba stated his belief that several POW's were still being held. He identified Richard Fecteau and John Downey, both of whom were known to be in Chinese hands and who, after being sentenced to long terms as "spies", were released by the Chinese in 1971 and 1973, respectively.

In response to the question, "Did you ever see the individual identified possibly as Van Voorhis?", a fellow crewman, Kiba responded, "Yes—in July '53. (20 thru 30) saw a white man, light hair, fit description of Van. Seen him four or five times. Look in fair health. Very active. Not positive that it was Van but think it was."[10] None of the other crewmembers saw the individual in question and most thought Captain Van Voorhis was dead. The Chinese reported that the captain had died in the shootdown of the B–29. Other Caucasians including an Australian and some Europeans, were held in the same prison with the Americans, and intelligence analysts attribute some of the confusion over possible additional American POW's to the presence of the other Caucasians. There is no evidence to support the contention that other Americans were held as POW's and Airman Kiba was not able to affix names or circumstances to the other Caucasians he reported seeing.

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[10] Case file—Steve E. Kiba.

The Abbot Case

Dr. Jeffrey Donahue, an MIA brother, advised a committee member that he had learned of a former Korean War POW who had important information to offer the committee. That information related to a possibility that some American POW's had forceably been retained by the Chinese or Korean Communists in 1953. It was also suggested that the former POW, Mr. William H. Abbot, had been forced to run from his captors during the "Big Switch" exchange at Panmunjom in August 1953 in order to regain his freedom. The committee found it necessary to inquire into these circumstances because of the possibility of dereliction of duty by American officials and the reemergence of old claims that POW's were still held in China.

The Department of Defense was requested by the committee to obtain the appropriate personnel records. The decision whether or not to receive testimony from the former POW would depend on what he could tell the committee that would be substantive and of direct value to this inquiry. The basic personnel records were among those destroyed in a fire at the St. Louis, Missouri repository. The Department of Defense then retrieved the original debriefing file, circa 1953, and delivered it to the committee in mid-October 1976. An analysis of the file, coupled with a telephone interview of the former POW, disclosed that he had no information of direct concern to this committee.[11]

EVALUATION OF THE CASE FILES

The files studied by the committee were complete and comprehensive. There was no evidence of careless handling or deliberate omission. Quite the opposite—military officers representing the services were open and cooperative; they were extremely responsive to the committee's requirements for information and explanations. The military and civilian officials at the Defense Intelligence Agency were equally cooperative and informative.

The services rendered to the committee were not isolated to the six investigative visits to DIA in Arlington, Va. The Department of Defense, the Defense Intelligence Agency, and service representatives responded with alacrity to scores of separate requests for numerous cases and for additional research.

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[11] The former POW, Mr. William H. Abbot, had been captured near Chosin Reservoir in Korea in November 1950. His impressive record of resistance to the Communists was attested to by more than 50 of his fellow POW's and he was recommended for a commendation medal. Mr. Abbot was thought to have been KIA at the time of his capture, but in March 1951, a Foreign Broadcast Information Service intercept of a *Radio Peking* broadcast showed that he was alive, as did a subsequent broadcast.

In his debriefing in 1953 and in the telephone interview in October 1976, Mr. Abbot stated he thought that a few flyers might have been retained by the Chinese, but he could not otherwise identify anyone in that category. There is no evidence to support his contention; aviators who were mainly officers were held in camp 2 or in "No Name Valley", segregated from other POW's. They were generally repatriated after the enlisted personnel, so Mr. Abbot would not have the opportunity to know whether all Americans had been returned. One Army returnee reported that Abbot himself had not been repatriated.

A few minor discrepancies were found. One case file lacked necessary documents, although they were cross-indexed. At the committee's request, copies of those documents were placed in the proper files. In two cases messages were declassified and placed in service files. Several intelligence reports that were of particular interest to the committee were "sanitized", that is the texts were declassified and approved for publication. Only the source data was withheld from declassification. That data was of no importance insofar as the case itself was concerned.

PERSPECTIVE

The purpose of this section is to compare and contrast statistics of previous military experiences with that of the recent Indochina war in order to provide a sharper focus on the problems that faced the committee, and that merit the serious attention of the Congress and other Federal agencies having important responsibilities in this area.

The battles of World War II spanned continents. Armies fought over vast distances in Africa, Europe, Asia and the Pacific. Casualties were enormous. The missing and captured were measured in thousands, then in the tens of thousands, and finally, in the waning days, in the millions.

In contrast, fewer men, representing a considerably smaller percentage of the total casualties, were missing in Indochina. To the grieving families, however, that statistic is no comfort. The pain for the next of kin of a missing member in this instance is as great as it was to relatives in other wars. Nonetheless, it is important that legislators, negotiators, and military commanders know and appreciate the significance of recent losses in order to prepare intelligently for possible future hostilities.

There is much to learn by studying the record of World War II in which losses were almost beyond the imagination. Later on the Korean Peninsula, American forces struggled with Communist armies for the first time and an entirely new experience resulted. Following that, the French were ejected from Indochina, the aftermath of which provides many lessons for us.

UNITED STATES WORLD WAR II CASUALTIES

More than 16 million Americans served during World War II, and battle casualties numbered over 360,000 killed and 670,000 wounded. When that war ended, those who gave their lives for their country were either buried in permanent overseas cemeteries or returned to the United States for burial. As in any war, however, a significant number of remains could not be recovered. Some were known to have perished, such as in the loss of ships or aircraft at sea, while others disappeared and have not been seen or otherwise accounted for in the more than 30 years that have since elapsed.

U.S. KILLED IN ACTION—WORLD WAR II

	Number	Percent
Recovered:		
Buried in United States	171,397	
Buried overseas	110,657	
Total	282,054	78
Identified	273,522	97
Unidentified	8,532	3
Total	282,054	
Nonrecoverable: Not recovered	78,794	22
Total	360,844	100

The chart above shows that 22 percent of the killed in action in World War II were not recovered; this includes the 3 percent not identified. Improved recordkeeping and sophisticated identification techniques now in use militate against such a large number of remains being unidentified; indeed, to date the Armed Services Graves Registration Office has been unable to designate an unknown soldier for the Vietnam war because of stringent criteria and proved results of current identification procedures.

Regulations in effect during World War II have been changed. No direct correlation is possible between presumptive findings of death under Title 37, United States Code now and those determinations rendered at the end of the war in 1945. Based on current practice, it appears that between 9,000 and 17,000 of the deaths in World War II were based on presumptive findings.

While the U.S. experience is of direct interest and importance to this investigation, the vastly greater casualties suffered by the Germans in World War II provide an interesting contrast.

GERMAN POW/MIA EXPERIENCE 1941–49

For Germany and the Soviet Union, World War II was a national war. Unlike U.S. local involvement in Korea or Indochina, the Germans and Soviets were fighting for the very existence of their state and political systems. As such, the manpower expenditures were enormous. Derivatively, the POW/MIA numbers were very great.

1941–1942: Pre-Stalingrad

The Soviets captured between 80,000 and 100,000 Germans prior to the battle at Stalingrad in late 1942. The physical conditions of captivity were very severe. The Russians were losing and, therefore, supplies available to their prisoners were few and inadequate. Between 70,000 and 90,000 of these German prisoners died.

The Soviets completed their encirclement of nearly 223,000 Axis troops on November 9, 1942. German resistance continued until February 2, 1943, during which time 30,000 wounded were evacuated by air. When the bitter and historic campaign ended, the Germans had lost 100,000 killed and another 93,000 taken by the Soviets as prisoners of war. Forty percent of the surviving POW's were sent to camps in European Russia. Sixty percent were sent to Eastern Russia. By war's end 87,000 of those POW's were dead.

In May 1945, the Soviets announced they had captured three million Germans during the war, of which approximately 80 percent capitulated in the final days of World War II. Expressions of concern for the fate of this great number of missing Axis soldiers were loud in the West after the war. In May 1950, a Tass official stated that all Germans had been repatriated except for 13,500 war criminals. Millions never made it home.

Any review of the Soviet treatment of its POW's captured in World War II should include mention of the fate of many Polish prisoners. Between October 1939 and June 1941, approximately 1,692,000 Poles were deported to the Soviet Union.

In April 1943, a kind of accounting was made on the fate of 15,000 Polish soldiers who had disappeared three years earlier while in

Soviet hands. Germans broadcast that they had discovered three mass graves in the Katyn Forest containing the bodies of over 10,000 Polish officers. The estimate was low but Soviet culpability in this massacre was clear. The Russians had detained these soldiers until April 1940. It is noteworthy that inquiries made to the Soviet government about the fate of these Polish soldiers prior to April 1943 received the implausible response that "they escaped to Manchuria"—a distance of 4,000 miles.

THE KOREAN EXPERIENCE

North Korean forces crossed the 38th parallel on June 25, 1950, invading the Republic of South Korea. United States forces, soon joined by contingents of other nations were committed to the defense of South Korea under the aegis of the United Nations. U.S. combat deaths for the 3-year war ran to 33,629.[1] The number of Americans known to have been captured or interned was 7,140, of which 4,418 returned alive. The remaining 2,701 had died in captivity. An additional 5,866 men had been listed as "missing in action" during the course of the war, 4,735 of whom were presumed to have died. The others were determined on an evidentiary basis to have died while missing. Fourteen months after the end of the conflict, 24 men were still listed as missing. The majority of these men were known to be alive, but having been sentenced by Chinese courts, they were being held in prison.

More than two-thirds of the Americans taken prisoner by the Communist forces were captured in the first eight months of fighting. Nearly half of the 5,000 Americans captured in this period died.

Truce negotiations began in January 1951. Forceful versus nonforceful repatriation of POW's became the major stumbling block, and the talks dragged on for two years. Significant questions lingered in the wake of the peace settlement which was finally signed in July 1953. Both sides had agreed to repatriate the prisoners they held and to account for those who died and about whom they had knowledge. The Communists'[2] accounting was sorely deficient. Some prisoners who had sent mail or who had been used in propaganda efforts have never been accounted for.

The U.S. Government tried persistently to obtain an accounting, particularly for 450 men who were believed to have been alive at one time in Communist hands. Approximately 70 meetings were held with the Chinese in Geneva on the POW/MIA problem over a 2-year period after the war. These considerable efforts produced no results.

Treatment of prisoners

North Korean forces did not establish or maintain any POW camps in the formal sense that the United States had previously come to expect. Their rapid advance into South Korea through August 1950 caused them to gather captives in the wake of their offensive and then herd them northward away from the scenes of fighting. North Korean brutality accounted for many POW deaths. The ravages of weather and continued cruelty of the North Koreans combined to increase the death toll among the prisoners.

Chinese intervention, first detected in October 1950, brought a halt to the UN advances in late November. The tide once again turned and before the year's end, the battle was stalmated generally along the original demarcation line—the 38th parallel. It was the Chinese who established and organized a formal system of POW camps. The principal camp, located at Pyoktong near the Yalu River, came into existence on January 20, 1951. A formal network of such camps, administered by the Chinese, was completed during the year. The North Koreans maintained POW processing installations in the few battle areas under their command as well as a minimal number of rear-area interrogation centers. When the Koreans completed their interrogation of POW's, the captives were turned over to the Chinese.[3]

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[1] Tentative Final Report of U.S. Battle Casualties, Nov. 4, 1954.

[2] Footnote omitted.

Large-scale captures by the Chinese were made in the period from November 1950 to March 1951. Those sick and wounded were provided no transportation. Malnutrition, dysentery, pneumonia, together with the untreated battle wounds, accounted for many deaths.

Atrocities

In his study of Korean operations, Albert Biderman pointed out that 1,036 Americans died as a result of "battlefield atrocities".[4] These men died while missing, but apparently never entered formal captivity. One example of such brutality can be discerned from the experience of a Marine patrol that had been ambushed and captured in Korea.

> The guerrilla commander then directed his lieutenants to prepare to execute the prisoners secretly. Shallow graves were dug in the frozen earth, ready to receive the victims. On February 5, 1951, the day appointed for the executions, the Koreans led the first prisoner forth alone. He was made to strip naked in the chill February winds. Once stripped, his hands were bound behind his back with wire and he was forced to sit down. Completely helpless now, the unfortunate prisoner suddenly found himself serving as a practice dummy for the cruel bayonets of a sadistic enemy. And one by one, the ten Marines died solitary deaths from mutiple bayonet slashes in chest and back. Some who resisted or who died too slowly to suit their captors, were slaughtered by crushing butt strokes from the heel or toe of the rifle stock. One of the Marines was interred in a standing position, buried up to his eyebrows. Another had a large rock resting on his chest. The remainder were dropped into shallow graves and hastily covered over.[5]

Prisoner exchanges

Shortly after the outbreak of hostilities, both sides promised they would abide by the stipulations of the revised Geneva Convention, drafted in 1949. None of the major powers involved, however, had yet signed the Convention. The Executive Committee of the League of Red Cross Societies requested in late 1952 that the belligerants repatriate the sick and wounded POW's. Although the U.N. Command concurred, North Korea ignored the proposition. The Communist leaders finally agreed to such an exchange on March 28, 1953. An agreement was signed on April 11, arranging procedures for the exchange of the sick and wounded.

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[3] Major General William L. Dean, U.S. Army, was captured in 1950. He was the only American known to have been held exclusively by the North Koreans throughout the hostilities.

[4] Albert Biderman, *March to Calumny.* (MacMillan Co., New York, N.Y. 1963.)

[5] J. Angus MacDonald, "Problems of U.S. Marine Corps Prisoners of War in Korea". Thesis presented to the University of Maryland, 1961, p. 91. The guerrilla leaders were captured later.

(a) During "Operation Little Switch", which began on April 20, 1953, 6,670 North Korean and Communist Chinese were exchanged for 684 U.N. soldiers, of whom 149 were U.S. personnel.

(b) "Operation Big Switch", the exchange of the majority of prisoners, began on August 5, following the signing of the armistice agreement. By the end of the two exchanges, 5,133 Americans previously listed as "captured" or "missing" had been repatriated.

Twenty-one American soldiers refused repatriation and were sent to China by their captors where they were integrated into Chinese society.[6] In contrast, nearly half of the 170,000 prisoners held by the United Nations Command (UNC) refused repatriation.

(c) Of the 24 personnel still reported as missing as of September 30, 1954, 15 Air Force fliers and 2 civilians were definitely known to be alive. The Chinese Reds admitted they were holding them prisoner but contended they were not war prisoners but "political prisoners" who were allegedly captured in Manchuria outside the war zone. As a result of diplomatic efforts, 4 fliers were released May 31, 1955; 11 B–29 airmen were released August 1, 1955.[7] Two American civilians were held until 1971 and 1973 respectively.

(d) One other American POW was released by the Communists in September 1954 after 8 months of captivity in Korea. Marine Lieutenant Colonel Herbert Peters was assumed to have crashed in some inaccessible area in South Korea in January 1954, long after the Armistice, and he was declared dead at that time. It is significant that the Communists released him unharmed when the U.S. Government had no reason to believe he had been captured.

Evaluation

Information collected from combat soldiers, escapees, and returnees suggests a persuasive rationale for Communist reluctance to provide a satisfactory accounting. The captured serviceman could die in many ways. In the early stages of the war, prior to the start of truce talks, atrocities at the time of capture and afterwards were not uncommon. Gross mistreatment and techniques of exploitation were nearly as inhumane. Long marches to detention camps in the north, inadequate food, and insufficient shelter and clothing in sub-zero weather killed many. Resistance to the propaganda effort resulted in isolated confinement and reduction of food.

The implied lesson for future American involvement in armed conflicts with Communist forces was that U.S. expectations for POW/MIA accounting far exceed actual performance.

Even before U.S. forces became involved in Korea, French Expeditionary Forces had been engaged in a series of battles in Indochina. Those battles were nearing an end when the hostilities ceased in Korea.

THE FRENCH POW/MIA EXPERIENCE IN INDOCHINA 1946–1954

The magnitude and duration of the problem of unaccounted-for soldiers of France and the history of efforts to repatriate the living

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[6] Reportedly, 1 has since died, 19 returned permanently to the United States, and one, James Veneris, returned in July 1976 for a prolonged visit. Mr. Veneris had no knowledge of any Americans being held as POW in China.

[7] This group included Steve Kiba.

and the dead must be considered by the United States in its current related efforts.

> **War came to Indochina in the wake of the crumbling European colonial empires in Asia during World War II.[8]**

A power vacuum existed in Indochina between the end of the second World War and the beginning of 1946 when French reintroduced troops in Vietnam. Exploiting this vacuum and leading the anti-colonial revolution were the Viet Minh. Western military tactics proved ineffective against the Viet Minh's guerrilla-style fighting. The French commitment to regain sovereignty in Indochina lacked the enormous investment in manpower typical in conventional, national wars. As a consequence, the number of French Union soldiers not accounted for in the French-Vietnam war, a guerrilla war, is dwarfed by the millions who were unaccounted for after World War II.

Over 20,000 French Union soldiers have never been adequately accounted for. Since the cessation of hostilities in July 1954, the process of repatriation of remains to France has been sporadic. In concessionary fashion, roughly 3,000 remains have been repatriated. As late as 1975, the remains of 32 servicemen who died for France were repatriated from North Vietnam. These Frenchmen were interred in metropolitan France in February 1976 with military honors.

> The Vietnam Agreement, negotiated and signed in Geneva on July 20, 1954, called for the release of all prisoners of war and civilian internees held by either side. The prisoner releases were effected by two agreements. The first was an informal understanding reached through Chinese and Soviet intermediaries prior to the opening of the Geneva Conference. The other, a formal arrangement, was incorporated in the final agreement (Article 21).[9]

The formal exchange of prisoners followed the conclusion of the Geneva Conference. Some prisoners had been released before the signing. Many were in serious physical condition, especially those wounded at Dien Bien Phu.

At the start of the Conference, Ho Chi Minh's representative, Pham Van Dong suggested that both sides evacuate their seriously wounded. When French negotiators soon arrived at Dien Bien Phu to arrange with the Viet Minh command for the evacuations, the latter tried to impose additional conditions, not discussed at Geneva.

> (a) No repairs of the airstrip would be permitted that would allow the French to land C-47's and evacuate the seriously wounded.
>
> (b) The French would be allowed initially to evacuate only 450 wounded POW's.
>
> (c) The French would not be permitted to evacuate any Vietnamese POW's.
>
> (d) During the evacuation, the French had to refrain from bombing Colonial Route 41 so as to permit the Viet Minh to evacuate their own wounded from Dien Bien Phu.[10]

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[8] Bernard Fall, *Street Without Joy*, London: Pall Mall Press, 1961, p. 22.

[9] Anita Lauve, "Prisoners of War in Indochina (Geneva Settlements of 1954 and 1961-62)", 1968, printed in part 4 of Committee Hearings, p. 198.

[10] Testimony of Ms. Anita Lauve, Select Committee Hearings, part 4, "Americans Missing in Southeast Asia".

The French offered to repair the airstrip and evacuate the wounded, both Viet Minh and French Union soldiers. This offer was rejected. The DRV did allow the French to evacuate wounded prisoners. Unfortunately, the French were able to remove only 133 of these wounded during the first week.

The evacuation of the wounded French Union Forces proceeded slowly in May and June. Some wounded were air lifted, others were forced to march 600 kilometers to freedom. Negotiations between the two Commands continued at Trung Gia, North Vietnam. Finally, on July 14—Bastille Day—each side exchanged 100 wounded prisoners at Viet Tri and Mai-Thon (NVN).

> The Associated Press correspondent in Hanoi described the physical condition of the POW's as "catastrophic". Some prisoners reported that of the men who had been sent on the "death march" from their camp near Dien Bien Phu, 15 had died daily, and they expected those who were not returned promptly would die of cholera, dysentery, or malnutrition. French authorities in Saigon censored the stories of correspondents to delete realistic description of the prisoners' condition, as well as such terms as "death march" and other revealing statements made by the POW's themselves, in order to avoid distressing the families of prisoners and lessening the chances of release for those still in captivity.
>
> As the Viet Minh began releasing prisoners, top French officials in Saigon and Paris privately expressed deep concern about publicity, in France and in the United States, regarding the condition of the returned POW's, whose treatment by the Viet Minh had admittedly been "cruel and horrible beyond belief". They urged—as they had with respect to the POW's returned from Dien Bien Phu—that the issue be soft-pedalled while releases were still going on, because past experience had shown that the Viet Minh would prefer either to kill prisoners or allow them to die of illness and starvation than to release them if release was accompanied by widespread unfavorable publicity.[11]

The deadline

After the deadline for all releases on September 9, 1954, the French reported having received 11,706 POW's of the French Union forces. Of the estimated 9,600 Vietnamese Army prisoners believed to have been held by the DRV, only 214 had been released. The French contended the DRV was still withholding 9,537 prisoners of war.

One year after the Geneva Conference, a report by the French High Command in Indochina concerning replies received from the Viet Minh concerning the fate of the French/GVN prisoners elicited the following response: 4 percent of the unaccounted for had died; 17 percent had been handed over; none had escaped; 8 percent had deserted to their side; and the fate of 71 percent was unknown.[12]

Postwar record

Except for Agreement No. 24, signed on February 1, 1955, which specified disinterment procedures, there were no further negotiations concerning the unaccounted-for French Union soldiers until the Fall of 1962. It was reported on November 17, 1962, over Radio Hanoi that the DRV had accepted a French plan to repatriate and transport French Union prisoners of war. No indication of the number of prisoners involved was made.

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[11] *Ibid.*, p. 145. Ms. Lauve presents information on the Viet Minh treatment of prisoners in her supplementary answers.

[12] *Ibid.*

Thirty French military personnel were returned to Marseilles and some were reportedly court-martialed as "deserters". About 100 Spanish soldiers who had voluntarily remained in North Vietnam returned to Spain in 1967. Several hundred Moroccans also returned in 1971. The slow repatriation of remains has continued 22 years after the 1954 Geneva settlement.

Evaluation

The French never received a satisfactory accounting. Over 20,000 French Union soldiers were never accounted for. The European Assembly of Captive Nations charged, in December 1954, that the Viet Minh had forcibly repatriated French Foreign Legionnaires of East European origin back to Communist Eastern Europe.

Information on the conditions of captivity to which the French Union soldiers were subject suggests that many of the missing died in prison camps. Those who survived the "death march" were in horrible physical condition. Jules Roy described these men as "living skeletons with burning eyes, lost in their clothes".

An analysis of the French POW/MIA experience in Indochina leads to the inevitable conclusion that difficult negotiations lie ahead for American diplomats.

CHAPTER V.—COMMITTEE INVESTIGATIONS

At the outset, the select committee began compiling data essential for an understanding of the problems associated with the POW/MIA issue. Members were already familiar with the official position articulated by Department of Defense spokesmen—that there was no credible evidence that any Americans captured before February 1973 were still being held prisoner in Southeast Asia. Members were also aware that the Department of Defense position had been challenged on several occasions. Critics of the Department referred to the seemingly inexhaustible flow of sighting reports that emanated from Indochina; reports from indigenous sources that alleged having seen American POW's in various numbers at countless locations throughout Indochina. Though abundant in number, the reports rarely identified a missing American by name or provided sufficient data for correlation with specific cases. Other critics charged that some American officials had been disinterested or inept in effecting rescues of Americans exposed to capture by hostile forces.

The select committee found it necessary to pursue those rumors and reports that were widely accepted and which, if true, would have suggested that Americans in official capacities, with urgent responsibilities in the POW/MIA area, had abandoned any isolated or captured Americans. The validity of these sighting reports had to be studied. Specific incidents had to be investigated and reinvestigated to learn whether dereliction of duty by persons in authority may have jeopardized their fellow countrymen. To this end, the committee directed an intensive, time-consuming, series of investigations.

A country-by-country analysis of some of the principal reports follows:

LAOS

It quickly became obvious that the most prolific sources of rumor and information were in Laos. The presence of an American diplomatic community in Vientiane, and the relatively easy access to Vientiane by American citizens, created a market for the fabricators and opportunists that abound in that Asian nation. Pathet Lao representative Soth Pethrasi was allowed to remain in Vientiane by the Government of National Union, and he often provided grist for the rumor mills. Other Lao citizens abetted the efforts of Pethrasi and contributed to the proliferation of reports. Much of the information pouring out of Laos was specious, but some was not.

Several individuals and, to a significant degree, the National League of Families posed important questions to the committee about the reports, sightings, and rumors emanating from Laos. Committee members believed they had an obligation to investigate the issues that were raised concerning POW's and MIA's and which had enough substance to warrant further inquiry. A concerted effort was made to locate the original sources of information or eyewitnesses to the incidents in question and to avoid reliance on reports from official agencies. The following are some of the major rumors and reports that were investigated.

RESCUE ATTEMPTS—KENGKOK

Early in its tenure, the committee was told that the U.S. Embassy in Vientiane had intervened and concealed an attempt to rescue several missionaries who had been captured by North Vietnamese forces at Kengkok, Laos in October 1972. The gravity of such a charge made it imperative that the members be fully informed of the details of the event. One of the missionaries had escaped capture and a copy of his original report was obtained.[1] Another of the missionaries who had been captured was released in the POW exchange of 1973. He was questioned by the staff and related many of the details of the incident as well as those pertaining to his capture and imprisonment.[2] Finally, the two U.S. Army officers who played a role in the rescue that was effected were contacted and questioned at length.[3] The Kengkok episode was reconstructed from the foregoing sources.

On the morning of October 28, 1972, North Vietnamese forces entered the town of Kengkok, Laos. Two missionaries, Lloyd Oppel, a Canadian, and Samuel Mattix, an American, were taken prisoner and were later moved by foot to Hanoi. They were released in 1973. Elsewhere in Kengkok, two women missionaries hid in their home until discovered later by North Vietnamese.[4] The two ladies were held briefly but were executed by North Vietnamese soldiers when friendly forces attacked the village. Their bodies were later discovered under a burned hut, one of 210 huts burned by the North Vietnamese and Pathet Lao. A limited attempt at evacuation was made by an American military attaché from nearby Savannakhet. He borrowed a civilian helicopter and landed near Kengkok to evacuate any missionary who might have escaped the North Vietnamese forces; he succeeded in rescuing Rev. and Mrs. Choppard, nine Filipinos, and five Lao.

U.S. military assets for a forced rescue were not available. By the time a Royal Lao force entered Kengkok a few days later, the two male missionaries had been evacuated and the two women executed. In short, officials did the best they could under the circumstances and rather than interferring with rescue efforts, they used their limited means to good advantage.

RESCUE PLANS AND A FABRICATED STORY

The committee also received a report concerning another aborted rescue attempt in Laos. The incident supposedly occurred in early March 1973, and involved a planned attempt to rescue nine U.S. citizens who were said to have escaped from a prison compound in north central Laos and were making their way to Thailand. According to the report, the U.S. Embassy had organized a helicopter rescue attempt but at the last minute the attempted rescue was canceled without explanation. The report indicated that Major John B. Wilson, the Assistant Army Attaché in Vientiane, was in charge of the rescue attempt. Major Wilson reported to the staff that the incident was grossly distorted.

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[1] Report by Rev. Les Choppard, Christian Missionary Alliance. See Select Committee Hearings, part 5.

[2] Staff Memorandum for the Record of a conversation with Rev. Samuel Mattix.

[3] Staff Memorandum for the Record of conversations with Major John B. Wilson and LTC. Norman Vaughn.

[4] Evelyn Anderson of Quincy, Michigan and Beatrice Kosin of Fort Washakie, Wyoming.

The source was traced to a well-known Lao intelligence fabricator, Southi, who, Wilson said, had been reporting every week or 10 days for many years concerning supposedly live American prisoners. Southi never produced any credible evidence and was considered a highly unreliable source.[5]

Nevertheless, because the Embassy followed up all types of reports and because Southi had provided so much information in this case, a task force was organized for the rescue. Details of the location of the POW camp in which the supposed escapees had been held, a safe rescue-landing zone, signals for pick-up, et cetera, had been provided by Southi. Planes were in the air and a rescue operation was ready for execution when Southi changed his story, saying the nine Americans had just changed location. He named his sources of information which, upon Embassy investigation, proved not to exist. Communication intercepts, upon which he based much of his story, were found to be fabrications. When examined by intelligence personnel having communications backgrounds, the entire narrative was revealed to be wholly improbable.

Major Wilson added that he knew of no American POW not known by U.S. intelligence, and that he personally believed there were none still alive.

AIR AMERICA FLIGHT 293

An Air America C-123 contract flight failed to return from a resupply mission over northern Laos on December 27, 1971. The three Americans and one Lao in the crew have not been accounted for.

Several private citizens who have since visited Laos reported that the crew members were captured by the Pathet Lao.[6] The well-meaning visitors described minor injuries supposedly suffered by the crew members; the pilot with a broken arm, the co-pilot with a gash on his knee, the crew chief with a gash on his forehead, and the Lao suffering a missing tooth.

It is important to note that from December 27, 1971, until August 1972, no information was developed or reported concerning flight 293. In July 1972, Air America sponsored radio and newspaper advertisements in Laos announcing a reward of two kilos of gold for the return of the men in any form at all, and 62 grams of gold for information on the missing men or aircraft. Significantly, within a few days, a casual source in Vientiane reported that a potential defector from the Pathet Lao had information on the Air America crew. The casual source stated that he had been told the four Air America employees were

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[5] Other independent sources with whom the staff has had contact had received large amounts of data from Southi. For example, Mr. Bruce Percifield provided the select committee staff with numerous documents including supposed radio intercepts which he, Percifield, had received from Southi in Vientiane. The documents were screened by DIA at the staff's request, and all were determined to be fabrications as were those checked out in 1973 by U.S. Embassy officials in Vientiane.

[6] Information on this incident was furnished to the select committee by the following:

—Rev. Paul Lindstrom—interviewed in Prospect Heights, Illinois on May 6 and 7, 1976.

—Mr. Bruce Percifield—who provided considerable new data by mail, and who was interviewed by phone.

—Mrs. Roy "Virgie" Townley, wife of the Air America pilot.

—Officials of Air America on interview by staff.

—Major John Wilson, former Army Attaché, Vientiane, interviewed by staff on March 22, 1976.

—The casualty files on Mr. Roy Townley maintained by Air America, Department of State, and the Defense Intelligence Agency were screened by committee and staff members during May and June 1976.

POW's, and he described their injuries.[7] A week later, a casual source, named Southi, approached the Embassy saying he knew a man whose friend was a Pathet Lao defector. The defector, Southi said, had been a Pathet Lao soldier guarding the Air America crew at Muong Sai, Laos. The defector, accompanied by an interpreter and the casual source, was interrogated at the Army Attaché's office. Whenever the defector was asked a difficult question, he would look to Southi's interpreter for an answer. The defector was asked to identify the photographs of the American airmen whom he had supposedly guarded for four months. He did not correctly identify any of the three Americans from a total of 16 photos. In addition, he was unable to identify the Lao "kicker" who accompanied the Americans, and whom he also supposedly guarded, from a total of five Lao photos. Under prompting by Southi's interpreter, the source reexamined the pictures. After what the intelligence evaluator discerned as "mumbling" from the interpreter, the source identified two of the four men. His evasiveness, prompting by the interpreter, contradictory and sometimes illogical statements, and, finally, his inability to identify pictures of the four men—with whom he supposedly lived for four months—led the interrogator to conclude that the entire episode was a fabrication.[8]

Unfortunately, that fabrication has continued to circulate despite lack of evidence of any sort concerning the fate or whereabouts of the missing aircraft or its crew.

The Townley case is further complicated by reason of a photograph that was received by DIA nearly a year after Mr. Townley was lost.[9] One of the six unidentified photographs in Defense Intelligence Agency publication, "Unidentified U.S. Prisoners of War in Southeast Asia," bears a resemblance to Mr. Roy Townley, pilot of missing Air America Flight 293, and to at least two other missing Americans. The individual in the picture appears to be in a small, hospital-type bed; his left arm is bandaged or in a light cast. The photograph is of poor quality, thus precluding any positive identification. The time, location, and circumstances of the photography are unknown. It is clear, however, that none of the crew members has been seen by any credible source since December 1971, and the aircraft has never been located.

EVERINGHAM ON PRISONERS

Australian journalist John Everingham is an important source of information on events in Laos. Mr. Everingham is presently stationed in Vientiane writing for the *Far Eastern Economic Review*. He was captured by the Pathet Lao in 1972 and held for 29 days, during which time he was told by his captors that the Pathet Lao held nearly 200 American prisoners. Reportedly, the alleged POW's were well taken care of in the vicinity of the Sam Neua caves.[10] It should be noted that at the time of his capture, U.S. air forces were supporting the Royal Lao government with heavy air attacks against the Pathet Lao whose spokesmen frequently claimed that the Pathet Lao held dozens or hundreds of U.S. POW's—statements which later were disclaimed by those same officials.[11]

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[7] I.R. 2 237 0095 72. The select committee had this document and a related report. I.R. 2 237 0116 72, declassified. They are printed in part 5. Select Committee Hearings.

[8] *Ibid.*

[9] ASD/ISA memorandum to staff director, June 2, 1976.

[10] The Sam Neua caves constitute the only confirmed POW camp system in Laos during the Vietnam war era, although as many as 150 other locations have been reported at various times.

The Australian was told different things by different soldiers, and it was obvious to him that some of his guards were most interested in impressing him. He further stated that he is still in regular contact with the Pathet Lao, but that he has given up asking questions about Americans missing in Laos since he has exhausted all of his contacts and has received nothing that resembles new information.

Everyone, including his close friends among the Pathet Lao, assure him that there are no Americans still imprisoned any place in Laos. Mr. Everingham said, "I must certainly believe them. I can see no possibility of these men unaccounted for being alive today." [12]

Mr. Everingham opined that the fact the Pathet Lao claim to have been "plastered by two million tons of U.S. bombs" suggests what their attitude might be towards U.S. POW's. In his view, the Pathet Lao developed an all-encompassing hatred for American pilots and he suspects that the Pathet Lao would have executed prisoners.

According to Mr. Everingham, the resentment by the Lao against the North Vietnamese for having negotiated away their prisoners during the Paris Peace Talks is the key. He said:

> I believe that the Lao felt that the Vietnamese had encroached on their sovereignty in a face-losing matter and were determined not to give back what prisoners they had captured themselves.

At this point, he said, the Americans might have been taken out and shot outright for offenses the Lao believe were capital crimes against their people, and in revenge for the thousands that had themselves been killed.

He stated that he believes "beyond the shadow of a doubt that there are no remaining POW Americans still alive in Laos."

"POP" BUELL CONTACT

In response to a request by the National League of Families, the committee asked Mr. Edgar "Pop" Buell if he had any information that any American prisoners might still be alive in Laos. Mr. Buell is a well-known and much respected U.S. AID veteran with several years of experience in the field in Laos.

Mr. Buell's response did not provide any information regarding live Americans still in Laos. He indicated a visceral "feeling" that there could be some, but he had no specific information to that effect.[13]

PRISON BREAKOUT

In April 1976, a report was received regarding some 200 indigenous Lao prisoners who broke out of a prison near Vientiane, Laos, and some of whom fled into nearby Thailand. On behalf of the select committee, Chairman Montgomery levied an intelligence collection requirement on the Department of State and the Central Intelligence Agency requesting that the escapees be interrogated for information about any Americans that might have been held in that prison or elsewhere in Laos. Despite the sensitivity involved, several escapees were questioned, but none was able to provide information regarding American prisoners. It appears that the prisoners had been incarcerated mainly for civil or political offenses in the Vientiane area. It is considered significant, however, that none of the escapees had heard any rumors of Americans possibly being held anywhere in Laos.[14]

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[11] See chapter 4 of this report.
[12] Letter from Mr. Everingham to the select committee dated May 27, 1976.
[13] Letter to the select committee staff from Edgar Buell.

ON-GOING EFFORTS OF THE DEPARTMENT OF STATE

In December 1975, Dr. Henry J. Kenny of the committee staff spoke with many officials in U.S. embassies in Bangkok, Vientiane, and Hong Kong, during which he evaluated on-going efforts to interrogate refugees from Laos, Cambodia, and Vietnam. Unfortunately, these efforts have produced no positive results to date, insofar as they relate to POW/MIA matters.

Mr. James Rosenthal, Director of the Office of Vietnam, Laos, and Cambodian Affairs in the Department of State, was asked by the committee to investigate further the interrogation of refugees to make MIA/POW inquiries in Laos. In April 1976, Mr. Rosenthal visited the Cambodian-Thai border, where he and other State Department official made inquiries regarding on-going interrogations, again with negative result.

In Vientiane, Mr. Rosenthal spoke to officials in the Foreign Ministry. He reminded them of their statement to the select committee in December 1975, that, as part of searching for their own missing, they would not fail to search for Americans who were missing.

The Pathet Lao responded that the Lao people did not like Americans and that it was difficult to get them to search for American missing.

SPECTRE 17

The committee was provided opinions that American airmen may have survived the crash of an AC 130 aircraft downed near Pakse, Laos in December 1972.[15] A study of the case ensued, during which staff members spoke with officials from JCRC and DIA and certain family members. A review of case files involving the 11 missing Americans associated with the crash was also conducted. The investigation revealed that the aircraft was hit by antiaircraft fire, causing fuel to leak into the cargo compartment. The plane then burst into flames, described by witnesses as "a bright fireball". Two men survived the crash, one by parachuting just prior to the explosion, and the other was blown out by the force of the explosion and then parachuted to the ground. These men were rescued within hours. They believed there were no other survivors.

According to a Pathet Lao officer who later defected to the Royal Lao, a squad from his battalion recovered five parachutes on the night of the crash, two of which were charred. Early the following morning, he directed search operations. It was not clear whether the parachutes were flare chutes, personnel chutes, or drogue chutes.

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[14] Reports from Department of State and the Central Intelligence Agency in select committee files. In mid-October 1976, the committee received confidential information that tended to confirm this report.

[15] See also Select Committee Hearings, part 5.

He stated that the crash site contained various heavily charred human remains and there were no remains of entire bodies. He felt that there were parts of at least five or six bodies which his men subsequently buried in the immediate vicinity. He agreed that more bodies could have been in the aircraft and could have been completely burned in the fire prior to or after the crash. He also reported that two small piles of bloody bandages were found, but they were some 10 kilometers from the crash site.[16]

A Royal Lao force which entered the area shortly thereafter succeeded in obtaining the partial remains of one American, but found no evidence of any survivors.

Over a year later, the mother of one of the downed airmen was contacted by someone claiming her son was alive. She met with two Oriental men in Mexico City and was shown a photograph, allegedly of her son, which she was told she could have for a large sum of money. The MIA mother thought the photograph was of her son, but also felt he might have been dead in the picture.[17] The Orientals also said they had a letter which would prove her son was alive. They would not, however, produce the letter. The MIA mother replied that she would certainly somehow raise the money for her son's return alive, but nothing less. The Orientals were able to produce nothing but "less".

The evidence in the case of Spectre 17 overwhelmingly points to the death of all 11 aircraft members who did not return. It also illustrates a case in which the Pathet Lao may well be able to produce some remains.

Chairman Montgomery presented this case to the Pathet Lao officials during his visit to Laos on December 22, 1975, asking for an accounting. Hon. McCloskey personally volunteered to lead a search party to the site. As of this writing, there has been no positive reply.

EMMET KAY

Reports reaching the select committee indicated that Emmet Kay might have knowledge of American POW's in Laos. Mr. Kay, who flew for Continental Airways, was held prisoner in Laos for 14 months. Mr. Kay was captured on an airstrip on the Plaine des Jars in May 1973. He was moved eastward to Sam Neua Province where he was held in two separate caves, and later in a nearby village.

Mr. Kay said that during his imprisonment, he received no information that any Americans were being held prisoner. He saw no writing on the cave walls to indicate that any American had been held in that area, and had no information regarding other possible American prisoners.[18]

DEAN-SHARMAN CASE

One of the "hardest" cases presented to the select committee was that of Charles Dean and Neal Sharman.[19] Mr. Sharman was an

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[16] The two sergeants who parachuted and thus survived the crash were contacted in June 1976 at the select committee's request, and both stated they had not been injured nor had they left any bloody bandages. It seems logical if there were, in fact, any bandages, they must have come from some other sources. Both the Royal and Pathet Lao forces were active in the area.

[17] Mrs. M., the MIA mother, described the incident during an interview on May 6, 1976, and again on July 23, 1976.

[18] Debriefing report of Mr. Emmet Kay in committee files.

[19] This case is described in Select Committee Hearings, part 3, pp. 282–286.

Australian journalist and Mr. Dean, an American. They both disappeared in Laos in September 1974 and were reported alive as late as the end of February 1975.

The intelligence community considered these reports of good quality. There were eyewitness reports from a variety of sources—individuals who had personally seen the prisoners—and they came in such volume that there was no doubt that the Pathet Lao had indeed held these two men prisoners during the period indicated.

While in Thailand, committee members spoke with Ambassador Charles Whitehouse, who had been the U.S. Ambassador in Vientiane at the time the two journalists disappeared. Ambassador Whitehouse indicated that he had presented the cases of these two individuals to the Pathet Lao and made numerous requests concerning their fate. The Pathet Lao repeatedly denied that they had any information regarding these individuals.

Ambassador Whitehouse made numerous other inquiries regarding them, including one to the Embassy of the Democratic Republic of Vietnam in Vientiane. Again, he was told that the Communists had no information regarding the fate of the two individuals. While in Vietnam, the select committee also asked Lao officials the whereabouts of the two men, but were given no further information.

The case illustrates the permeability of the bamboo curtain in Laos. The volume of information concerning Dean and Sharman was very great and very accurate. Two separate intelligence networks were involved, and more than two dozen separate reports were received, thus tending to refute any assumption that no information has been forthcoming on live American prisoners in Laos. The fact that no information has surfaced concerning these two individuals since the end of February 1975, however, does not speak well for their fate. Nevertheless, evidence shows that the Pathet Lao definitely held these individuals as prisoners, but subsequently lied about it. Yet an accounting should be possible.

COLONEL VINCENT DONAHUE

A series of communications was initiated with several sources suggested by retired Air Force Colonel Vincent Donahue after his testimony before the select committee. The individuals listed by Col. Donahue proved to be lucrative sources of information regarding Laos. Taken together, more than 20 sources had an accumulative 100 years of experience in Laos, and several had been directly involved in POW/MIA matters.[20] This group included former CIA agents, U.S. AID and other government officials, airline personnel, military officers, and foreign nationals.

Unfortunately, none of these sources had any evidence of any Americans having been held in Laos in recent years. Without exception, these sources believed it highly unlikely that any missing Americans could possibly still be alive in Laos.

Some of the sources contacted were aware of reliable sightings of a few POW's in the mid-1960's, but they attributed most later reports to a plethora of intelligence fabricators seeking reward money for POW information. They cited problems of survival and ill treatment at the hands of the Pathet Lao, as well as lack of credible reports in recent years, as evidence for their belief that no Americans are being held alive.

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[20] A few individuals listed by Col. Donahue could not be contacted. Some had evidently moved from Laos to France, or elsewhere. Others simply did not respond to letters from the select committee. The majority, however, were contacted.

"BRIGHT LIGHT"

"Bright Light" was the routine code name for any sighting reports dealing with Americans missing in Southeast Asia. Some reports were accurate and useful; to this day some defy correlation; most were vague and of little use. A U.S. Government official who was in Laos most of the period from 1959 to 1974 and was associated with "Bright Light" reports witnessed the Pathet Lao release of five American POW's at the time of the first cease-fire in 1962. He debriefed the returnees and said that while imprisoned, the Americans had actually begged their Lao captors to keep them in stocks so they could avoid being led away to where they were beaten every day.[21]

This source, who requested that he not be identified publicly because of the nature of his current assignment, showed great familiarity with "Bright Light" objectives and results and knew that during the mid-1960's, there were credible reports of a few Americans being held in Laos, including Caucasians being moved to the North along the Ho Chi Minh Trail. In the late 1960's, however, information dried up considerably and remained so throughout the 1970's.

The source stated that with the exception of Kay, Dean, and Sharman, no positive information on specific individuals was received after the late 1960's.[22]

COL. EDWARD VAUGHN

Colonel Edward Vaughn, U.S. Army, served as the JCRC representative in Vientiane from April 1974 to April 1975. The colonel's principal mission was to gather information on missing Americans, a task that brought him into contact with all elements of the American intelligence community, friendly foreign intelligence agencies, visiting MIA family members, and the garden-variety fabricators, opportunists, and amateur sleuths. He was in an excellent position to receive and evaluate the flood of information, mostly untrue, that was offered gratuitously by casual sources. He was also privy to what little factual POW/MIA information became available.

Colonel Vaughn stated that during his assignment in Laos, there were no credible reports of any American POW's other than those concerning Emmet Kay and Charles Dean, whose cases were discussed above.

In addition to his intelligence responsibilities, Colonel Vaughn was required to develop reliable information on the terrain throughout Laos in order to contribute to recovery operations should they be permitted. Drawing on his extensive knowledge and familiarity with the Lao countryside, Colonel Vaughn referred to Commander Coker's testimony before the select committee, agreeing that it painted a very accurate picture of the problems of survival.[23] He added that even if a POW or evader in Laos were uninjured, it would be very difficult to survive.

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[21] For a graphic account of the harsh U.S. POW experience at the hands of the Lao, see Grant Wolfkill. *Reported to be Alive* (W. H. Allen, London, 1966).

Wolfkill, an NBC photographer, and four other Americans were released after a coalition government was formed in Laos in 1962. During their 15 months of captivity the prisoners were confined in totally dark cells. When dysentery struck, the cell would become putrid. Food was scant. Wolfkill lost 60 pounds. Guards taunted them and made mock efforts to execute them. A deranged fellow prisoner was killed in an effort to escape.

[22] Memorandum of conversation in select committee files.

CIA OFFICIAL [24]

A publication by the National League of Families referred to a CIA official having detailed knowledge of Special Forces MIA/POW operations in Laos.

In a private meeting with the select committee at Langley, Va., the CIA officer, formerly a station chief in Southeast Asia, made it clear that he had no information either in his former capacity in the field or his present assignment in the United States, that any Americans were still being held prisoner. He knew of a few individuals included in the official listing of American POW's in Laos who were known to have been held alive in the mid-1960's, but who he now believed to be dead. He noted there were reports of a few unnamed Caucasians being moved north along the Ho Chi Minh Trail, under North Vietnamese custody, during the mid-1960's, most of whom he assumed were returned in 1973, if those reports were true. He said that in the same timeframe, there were reports of a few Americans being held in northeastern Sam Neua Province, and that a reliable report in 1967 indicated that one of them was taken east to Vietnam. He recalled that reports of POW sightings were considerably reduced by the late 1960's.

The CIA official said he had shown certain visiting MIA family members some information regarding Special Forces operations, pointing out that his unit had a secondary mission of reporting any information on POW's. He advised that teams under his cognizance never did uncover evidence of live Americans, nor did they locate any POW camps or detention points. Nothing concrete was found of MIA/POW interest.

U.S. AID OFFICIAL

Delmar Spier, now working with the United States Agency for International Development, was a "public safety advisor" in Laos from 1972–74. His sensitive duties included developing information on MIA/POW matters. Mr. Spier revealed that in 1972, a visiting MIA father had paid $1,500 to Colonel S., a known Lao fabricator, for information on his son. Spier later escorted the father to Southern Laos where the latter distributed photos of his son and offered a reward for information on him, unfortunately to no avail. Mr. Spier described Colonel S. in these terms:

> I would not trust him as far as I could throw him. He was out for the money only. He would always claim to be in need of more money, to conduct more investigations. Yet, none of his stories were considered valid. Nor did they result in any good information.

The U.S. AID official referred the committee to another individual who was formerly with the Lao National Police and is now in the

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[23] See Select Committee Hearings, part 2, pp., 103–31. Commander Coker described the highly dangerous situation faced by an airman whose plane had been hit.

[24] Memorandum of Conversations in committee files. The source requested that his name not be used in any publications.

United States. The former police executive agreed that the Lao colonel was an intelligence fabricator seeking money. He said that in 1975, the Russians paid the fabricator a million kip a month for information on American activities in Laos.[25] He added that Colonel Donahue had asked him to pay Colonel S. for MIA information, but that he refused because the colonel was "nothing but a fabricator." [26]

AN UNNAMED SOURCE [27]

An American who departed Southeast Asia in 1976 and who was interviewed by the select committe staff indicated that there was an area around Tchepone, Laos in which he believed American prisoners were being held. He described a privately funded and directed military operation that was organized to penetrate and free prisoners from what he termed "a highly secured area with Soviet and Lao guards" near Tchepone. Asked what intelligence information supported the plan, he indicated he did not have any first-hand sightings.

An indigenous team had been paid to reconnoiter the supposed POW site. Although equipped with cameras, the team returned from what presumably was a patrol to Tchepone without photographic or other evidence of a prison camp. According to the American source, however, a Lao identified as Colonel S., former chief of Lao Security in Vientiane, had claimed that five Caucasians, possibly Frenchmen, were held several miles East of Seno, in Southern Laos, in the general vicinity of Tchepone. Col. S. said his sources had no further details concerning the rumored Caucasians.[27]

The American relating the above report said he had also reported this information to the U.S. Embassy in Vientiane and to the U.S. military attaché, Lieutenant Colonel Henry Durant.

LIEUTENANT COLONEL HENRY DURANT

Lieutenant Colonel Henry Durant served as Assistant Army Attaché in Laos in 1968–1972 where he was assigned primary responsibilities in the POW/MIA area. The colonel related his detailed exposure to indigenous sources, "Bright Light" reports, foreign clandestine agencies, and other intelligence acquisition channels. Drawing on his extensive background, he said that in the late 1960's, he believed that a few American POW's could still be held in Laos, but by about 1970, he could not recall any case or report which would have led him to believe there was any hope that prisoners might still be held. During this period, he interviewed hundreds of Lao returning from Pathet Lao areas, none of whom was able to provide credible information on American POW's or MIA's.

LTC Durant noted that he had traveled widely in Laos, and he considered survivability a definite problem. In this regard, he suggested that the Dieter Dengler debrief, and a book by returned Pathet Lao POW, Grant Wolfkill, as realistic background information on survival in Laos.[28]

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[25] About $350 per month in U.S. currency at that time.
[26] Legal and security reasons prevent public disclosure of this source.
[27] The same Colonel S. previously referred to.
[28] For data on escape Lieutenant Dieter Dengler, see chapter 4 of this report.

LTC Durant concluded by saying that Southi was one of the most prolific intelligence fabricators he had ever encountered.[29]

REVEREND PAUL D. LINDSTROM

Reverend Paul D. Lindstrom of Chicago was publicly active on the POW/MIA scene during the latter part of hostilities and in the immediate aftermath. The reverend also gained considerable attention by forming the "Remember the Pueblo Committee" and his prominence attracted gratuitous reports from many of those who were on the fringes of the problem. During his visits to Southeast Asia, Reverend Lindstrom received numerous reports which gave rise to his claims that Americans were left behind after the prisoner exchange of 1973. He brought to public attention the information that he received, pointing to the possibility that some American POW's from Vietnam may have been taken across the border into Communist China and kept there after the fighting had ceased. In this latter charge, Lindstrom reportedly referred to a super secret CIA report which purportedly described penetration of southern China by CIA-sponsored intelligence teams which returned with startling information on American POW's being held there. He also had indicated he received information on a large number of American prisoners who had been transferred from Laos to North Vietnam.

The National League of Families provided to the committee copies of news clippings covering Reverend Lindstrom's better known press releases and news conferences. The various reports were carefully screened and served as the basis for questions later posed to key witnesses before the committee and for the dialogue between the reverend and the select committee staff during a personal interview in Prospect Heights, Ill.[30]

Lieutenant General Vernon A. Walters, Deputy Director of the CIA, testified before the select committee that no super-secret CIA report on American POW's existed, and he denied that any U.S.-sponsored intelligence teams had penetrated southern China and returned with information on any American POW's. The general added that if there were any such reports, he most certainly would have known about it.[31]

When later asked whether he had any additional information on POW/MIA matters, Rev. Lindstrom made no mention of any such CIA report. He stated, however, that he had received reports concerning the movement of 84 Americans from Laos to China and another 37 from Laos to North Vietnam. He had no evidence to support the China report. In a subsequent staff interview, General Vang Pao said he had no information on Americans being taken to China. He added that reports of large numbers of POW's in Laos, such as those attributed to Rev. Lindstrom, were not possible.

Reverend Lindstrom reported that his information on the POW's taken to North Vietnam emanated from a Lao colonel who he identified as Chief of Security in Vientiane. He did not recall nor could he later provide the name of the Lao colonel, but his identification as Chief of Lao Security apparently correlates with Col. S.

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[29] Memorandum of Durant interview in committee files. Southi's name appears in the majority of the reports emanating from Laos.

[30] *Memorandum for the Record*, Lindstrom Interview, May 5–6, 1976, in committee files.

[31] Select Committee Hearings, part 3, pp. 133–34. See chapter 3 "Possibly Alive—Public Investigations."

Col. S. also turned out to be the leader of Reverend Lindstrom's "MacArthur Brigade", a group of privately funded Lao reconnaissance teams which provided "first-hand" information on Air America Flight 293. As described earlier in this chapter, the report on the Air America Flight has also been sourced to Southi, and determined to be a fabrication.

Thus, between Southi and Col. S., certain individuals were led to believe they had enough evidence to conduct operations in Laos to rescue supposed American POW's whose existence had never been verified, and about whom no reliable source had ever reported.

MR. JEAN SAINTENY

In November 1975, Dr. Henry J. Kenny met in Paris with Mr. Jean Sainteny, a renowned French authority on Indochina, with over 35 years experience in that area. Sainteny had arranged the Paris meetings between Secretary of State Henry Kissinger and Le Duc Tho and had also made several unpublicized efforts on behalf of American POW's.

Sainteny expressed little hope that any Americans might be alive in Indochina. In Laos, he said, the probability of survival by a downed American airman was very slim. He felt that even in cases where someone may have been known to be alive on the ground, that the combination of food shortage, difficult climate and terrain, and poor or nonexistent medical facilities, made survival most unlikely. In addition, he said, the primitive conditions under which the Pathet Lao operated caused them not to keep prisoners.

Mr. Sainteny advised the select committee not to repeat the French experience in Indochina with respect to POW/MIA matters. He further suggested that the committee endeavor to establish a liaison office of some kind in Hanoi to facilitate eventual repatriation of remains and the flow of information on MIA's.

After completing committee business in Paris, Dr. Kenny continued on to Southeast Asia where he met with several diplomatic officials, particularly in Vientiane. During the period December 1–8, 1975, Dr. Kenny discussed the POW/MIA issue with several key individuals.

SOURCES IN VIENTIANE, LAOS

Mr. Malik, an Indian national and the last Secretary General of the International Control Commission for Indochina, said he did not think there were any American prisoners alive in Indochina. Colonel Dvornikov, the Soviet Attaché, agreed with that assessment. It is significant that both of these gentlemen have access to Lao officials and to the countryside.

Colonel Colin Kahn, the Australian Attaché, had recently visited Sam Neua, including the caves, and had seen about 15 U.S. aircraft heaped in a pile as a sort of monument to the war. On this basis, the Colonel believed that Pathet Lao could account for a certain number of Americans associated with these aircraft. On the negative side, he neither saw nor was given any indication that any Americans were being held in the Sam Neua area or elsewhere in Laos.

Colonel John Cross, the United Kingdom Attaché, was believed to have the greatest familiarity with the countryside at the time of the committee staff visit. He stated unequivocally that he believed no

Americans remained alive as POW's. He also indicated that survival was extremely difficult in Laos in any situation, describing the ravages of intestinal diseases, river fluke, and malaria. Colonel Cross was formerly commander of the renowned jungle survival school in Malaysia, which made his statement all the more compelling.

This pessimism concerning survival is also retained by the fact that life expectancy in Laos is only 35 years.[32]

GENERAL VANG PAO

American officers first contacted Vang Pao in 1960, when he was a Lao Army major leading combat units against the North Vietnamese Army in northeastern Laos. During the next 14 years, at the urging of the Royal Lao government and with its approval, Vang Pao worked closely with American officials and his American advisors. With U.S. support, Vang Pao and his Meo troops carried the brunt of the fighting against North Vietnamese and Lao Communist forces.

Vang Pao emerged as the foremost military leader in northern Laos, rose to the rank of major general, and became the commanding officer of Military Region II, which included Sam Neua, the Pathet Lao headquarters and the place where many American prisoners were allegedly held. During this same period, Vang Pao emerged as the de facto tribal leader of some 250,000 Meo in Laos.

General Vang Pao played a major role in numerous search and rescue operations involving downed American pilots in Laos and North Vietnam, and because of his unique position as military and tribal leader, was able to direct and provide intelligence activities and reports.

After the Communist takeover in Laos in May 1975, General Vang Pao was forced to leave Laos. Eventually, he settled in the United States.

The General came to the attention of the select committee because of information he reported to Congressman Benjamin A. Gilman (R-N.Y.), a member of the select committee. At a meeting in Vang Pao's Laos headquarters in December 1973, the General informed Mr. Gilman that he had received information he considered reliable that "8-10 young American pilots were being held by the North Vietnamese" for the technical information they possessed.[33]

Never doubting that the General had received such a report, but wanting to check out its reliability and credibility, the select committee conducted an investigation that involved close scrutiny of the records of the intelligence community and two interviews with General Vang Pao for additional information, details, or evidence.[34] The chief results of this investigation are as follows:

—General Vang Pao stated that to the best of his memory, he had received one report of such a group in 1968, three in 1971, two in 1973, one in 1974, and two in 1975. It was not clear that all reports related to the same alleged group.

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[32] *Area Handbook for Laos*, p. 32.

[33] "Missing in Action in Southeast Asia, 1973." Hearings before the Subcommittee on National Security Policy and Scientific Development of the Committee on Foreign Affairs, 93rd Cong., 1st Sess., December 5, 1973, p. 76.

[34] Vang Pao interview with Dr. Job Dittberner, March 18, 1976, and with Congressman Paul N. McCloskey (R-Calif.) of the select committee, on July 1976. Memorandum for the record in committee files.

—The reliability of the sources of these reports varied. Some sources were untested.

—None of the sources reported that he personally had seen such a group of Americans. Each source had been told by others.

—American intelligence sources in Southeast Asia were at their peak in the period 1968–73. Given the high volume of reporting from captured enemy soldiers, refugees, and ralliers, it seems likely that rumors of the remarkable situation reported to General Vang Pao would have been corroborated by other debriefings and interrogations.

—Though an extensive investigation was conducted, no evidence was ever turned up by the American intelligence community to substantiate these reports.

—None of the prisoners who returned had been exploited for his technical knowledge as the 8–10 young American pilots supposedly were.

—Almost no military pilots have the requisite knowledge or skills to defuse ordnance, which, according to Vang Pao, was the central purpose for the alleged detention of these American pilots. Indeed, the Indochinese themselves have demonstrated a remarkable ability to convert unexploded ordnance into lethal boobytraps.

General Vang Pao also spoke of an attempt in the early spring of 1975 to check out the report of an American sighted in Khammouane Province, Laos. This report was positively correlated with Mr. Charles Dean, an American journalist missing in Laos, who, according to persistent reports, was being held in Khammouane. General Vang Pao was helpful in infiltrating an agent into the area near the sighting, but to date, the agent has not reported back.

The General reported further that his agents had at one time infiltrated Sam Neua, the Pathet Lao headquarters, discovered the cave where American prisoners were supposedly kept, and found no one.

General Vang Pao had no further knowledge of any live Americans in Laos.

DISCUSSION WITH PATHET LAO

The committee also made extensive efforts to approach the Lao on the question of live Americans. A principal feature of this effort was their meeting with Soubanh Srithirath, Chef de Cabinet of the Lao Foreign Ministry, on December 22, 1975. At this meeting, Soubanh said:

> We released your prisoners of war after the Paris Agreement. * * * We have shown our good will and desire to have good relations with the United States by already liberating your POW's.

Later in the meeting, Chairman Montgomery asked, "Is there any American alive in Laos?" Soubanh replied, "We have liberated everyone."[35]

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[35] Select Committee *Memorandum for the Record*, in committee files.

A CONFIDENTIAL SOURCE

In October 1976, the select committee received word through a confidential eyewitness source that there exists in Laos a prison system in which political prisoners are being brutally treated, with large numbers dying in captivity. The source said there were no Americans among the prisoners.[36]

SOUTH VIETNAM

After April 1973, tracking Americans missing in South Vietnam was inhibited by the reduced access to its people and territory. Nevertheless, because of the American civilian and diplomatic presence for 2 years after the cease-fire, and because of information provided by persons knowledgeable of the POW/MIA issue in South Vietnam, the select committee was able to investigate the principal reports of American prisoners. It should also be noted, however, that rumors and reports of American prisoners in South Vietnam were far fewer than in Laos.

ALAN DAWSON

During a staff visit to Southeast Asia, Alan Dawson, UPI Bureau Chief in Bangkok, was interviewed in detail concerning the POW/MIA issue in South Vietnam. Mr. Dawson had spent a number of years in Vietnam and remained in Saigon 4 months after the fall of the Republic of Vietnam. He has maintained some information flow from South Vietnam and was particularly interested in the MIA/POW issue.

Mr. Dawson reported that, just prior to his leaving South Vietnam, he was told by a PRG official that there were 100 American prisoners in North Vietnam. He said he was given no details concerning the POW's and did not believe the report. He opines that he was told this story in the hope that he would pass it to the American government, thereby inducing the United States to pay a high price for POW information. He said there was no evidence and but a very slim possibility that any Americans might be alive in Vietnam.

At the select committee's request, the national intelligence community analyzed the information received by Mr. Dawson from the PRG official, and determined it to be without foundation.

CHAU DOC

Australian journalist Neal Davis, while passing through Hong Kong, indicated that he had heard a rumor that four Caucasians were seen in Chau Doc, South Vietnam, just after the fall of Saigon. According to the rumor, the four were paraded through the streets of the town, after which at least two of them were said to have been killed.

The intelligence community has no further information or verification of this report.[37] The sighting does not correlate to any Americans known or suspected to be in the area. The information could not be traced to a particular source, although it had reportedly passed through at least two Vietnamese sub-sources.

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[36] A classified report in the select committee files.

[37] Ms. Frances Starner, an American journalist who remained in Saigon after its fall, returned to Bangkok in July 1976 and reported having heard a similar story. It is not known whether Ms. Starner received the information from the same source or a different one.

On August 1, 1976, Herman McDonald, a black American civilian, was permitted to leave Saigon, and on September 21, 1976, Mr. Arlo Gay was allowed to leave. Both men had been held near Chau Doc in 1975, but there does not appear to be any correlation between their experience and that of the reports concerning four Caucasians.

The committee believes there is a remote possibility that the report could be true. It should be noted, however, that the reported demise of two of the Caucasians, as well as the absence of further information does nothing to enhance the belief that two Americans might be alive. In any event, there is no description or other hint of identification, nor is there any clear evidence that the reported sightings were true. The committee also noted that any foreign Caucasians were usually assumed by natives to be Americans.

U.S. CITIZENS FROM SOUTH VIETNAM

The select committee was directly interested in the welfare of American citizens trapped in South Vietnam when it fell to the Communists. There was keen interest, also, in the information they had concerning all Americans who had remained behind and the possibility that they might possibly provide information directly related to the POW/MIA issue. Some of these individuals were debriefed by the select committee in Washington, some were debriefed in Bangkok by the Department of State at the request of the select committee, and others were queried by mail or telephone. Information received from these returnees related mainly to living conditions in Saigon and to the identity and whereabouts of other members of the American community. No information other than that previously cited on this report was developed concerning POW's or MIA's. Although there are reported sightings of a few Caucasian and Black deserters, no such deserters were identified by name.

DARLAC REPORTS

A series of related reports indicated that Americans were still held captive in Darlac Province, South Vietnam. The sources were identified and interviewed by the select committee in an effort to gain additional information, evidence, or details.

After thorough investigation, the select committee concluded that the "information" in these reports was of very dubious quality. The investigation showed clearly that the reports were fabrications constructed by partisans of an inchoate movement for Montagnard autonomy.

No evidence was uncovered to suggest that any Americans were held captive in Darlac. It readily became apparent that these reports had filtered into the intelligence community in various forms over a period of several years and that they had never been substantiated. After the committee's independent inquiry was completed, the Defense Intelligence Agency was requested to evaluate the raw information, but source identity was not revealed to DIA. The Agency was able to identify the source by name after learning the details.

These reports originated in an intricately complex history involving American Christian missionaries in Darlac Province and a group of Montagnards with wavering political loyalties, who were caught in the conflict between the Viet Cong and the Republic of South Vietnam.

An American Christian missionary organization had been active for many years among the Montagnard people of the Central Highlands.

They had gained the trust of the Montagnards and moved among them with ease and confidence.

The missionaries' interest in missing Americans began in 1962 when three of their colleagues—one woman and two men—were kidnapped by the Viet Cong at a missionary facility near Ban Me Thuot in Darlac Province.[38] These three were reported alive shortly after their capture, but not again. Missionary organizations active in the area vigorously pursued information on their missing colleagues, and, as other Americans were lost in that area, sought information on them as well. A number of conflicting reports about the missing missionaries surfaced in Darlac and began to circulate.

The missionaries' interest was intensified in 1968 when two more of their number and another American civilian were captured near Ban Me Thuot. One of the three captured in 1968 U.S. AID official Michael Benge, was taken to Hanoi for imprisonment. Upon his release in 1973, he reported that he had been present at the death of the two individuals captured with him.[39] The Provisional Revolutionary Government (PRG) acknowledged the capture and death of those two, but never provided any information on the three captured in 1962. The failure to receive any accounting for those captured in 1962 seemed to lend plausibility to rumors that they were still alive and held captive in the jungle.

In the early 1970's several missionaries sympathetic to the Montagnard movement for political autonomy, and interested in discovering more about their missing colleagues, were informed by Montagnard contacts that Americans were being held in the jungle by Montagnard Viet Cong. The Montagnard Viet Cong, it was reported, were considering defection from their North Vietnamese allies. They would exchange American prisoners for American support of the Montagnard movement for political autonomy. Arrangements were sought for a meeting in the jungle to discuss the matter further with a high-ranking Viet Cong officer, and perhaps the missionaries would even be allowed to see the Americans.[40] As often as the meetings were arranged, they were postponed, with the result that they never took place. Yet, reports continued to circulate and, out of curiosity of hope, these contacts were pursued.

The principal source for these reports was a young Montagnard missionary, HJ. In July 1974, HJ reported to officers of the Joint Casualty Resolution Center that he had information on missing Americans in Darlac. He repeated his story—he had been invited by a high-ranking Viet Cong officer in February 1973 to a jungle location where, he said, he was allowed to see five Americans, including a woman. HJ was to report to the JCRC officers a month later with further information. He did not return with that information.[41]

HJ continued his contacts with Americans—notably an American missionary and an American civilian. According to the missionary, HJ suggested that information on missing Americans and/or prisoner release could be arranged in exchange for American support of the Montagnard autonomy. The American civilian stated that he had never heard the slightest suggestion of any trade-offs.

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[38] Select Committee Hearings, part 1, p. 82.

Dr. Ardel Vietti, Rev. Archie Mitchell, and Mr. Dan Gerber were seized by the Viet Cong on May 30, 1962.

[39] Nurse Betty Olsen and Mr. Henry Blood. See Select Committee Hearings, part 1, p. 83.

[40] Reported in an interview on June 30, 1976, with Mr. Larry Ward, President of Food for the Hungry, who attempted to meet with the Viet Cong in the hope that he could obtain information on MIA's. *Memorandum for the Record* in select committee files.

[41] ASD, ISA memorandum to select committee.

Both Americans returned to the United States and, in late 1974, at White House meetings that included Presidential advisors and top officials from the State and Defense Departments, they reported the information they had gained.[42] The reports were passed on to the appropriate agencies at home and abroad, where they were analyzed and evaluated. After careful consideration, the reports were determined to be unreliable; merely rumors floated with the hope of gaining American support for Montagnard autonomy.

There were certain recurring elements to the stories: five or six Americans held in the jungle at a hidden location; a high-ranking Montagnard Viet Cong general wavering in his support of the North Vietnamese but unwavering in his loyalty to the cause of Montagnard autonomy; a continually postponed meeting between the Americans and the general.[43]

Characteristic of all these contacts and reports was the failure to produce a single piece of firm evidence, such as a picture, a name, an ID card, or remains, though the Montagnard contacts had over 3 years to produce such evidence and, ostensibly, opportunity to do so if their reports were true.

This source, HJ, quoted a high-ranking Montagnard Viet Cong officer who claimed to hold several hundred Americans. He was willing, according to this story, to bargain the release of 60 or 70 American prisoners in exchange for U.S. assistance to the Montagnard autonomy movement. Despite the highly suspect nature of this story, the committee requested an evaluation from the Department of Defense. Information already available tended to refute this report completely. The DOD analysis was as follows:

> That "80–170" or "several hundred" U.S. prisoners under detention somewhere in the Central Highlands is virtually impossible. For any of these numbers of U.S. personnel to be held as PW's would have necessitated the capture of every missing American ever lost in the Central Highlands—and then some.[44]

VIETNAMESE LEADERS

Several leaders of the Vietnamese community in the United States were interviewed regarding possible knowledge of American POW's in Vietnam. The response from former Republic of Vietnam Ambassador to the United States, Dr. Pham Van Trinh, characterized those of all of the responsible Vietnamese who were contacted. They had no knowledge of any Americans being held anywhere in Indochina and thought such a possibility to be very remote. Arrangements for a committee meeting with Marshal Nguyen Cao Ky, variously President and Vice President of the Republic, failed to materialize, but telephonic discussions showed that he had no substantive contribution to make to the committee.

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[42] Reports and memoranda on these meetings in committee files.

[43] In February 1976, HJ reported a similar story to the committee, changing several critical details, apparently changing the story to gain maximum plausibility and appeal.

[44] ASD, ISA memorandum to select committee.

NORTH VIETNAM

Information available to the committee about Americans in North Vietnam derived mainly from official agencies of the U.S. Government based on efforts made prior to 1973 or during the prisoner exchange. The committee screened case files and intelligence studies and reports to verify information submitted to the select committee that all prisoners who were known to be in North Vietnam and were reported on by other prisoners had indeed returned.

Examination of a random sample of returned POW debriefs tended to confirm that any prisoner who became known in the system was either returned or accounted for in some way.[45]

It is important to note here that some individuals known in the system but not returned were last seen in an extremely poor state of health, described as dying, at which point they were separated from the other POW's and never seen again. Such an instance was described in Howard Rutledge's book *In the Presence of My Enemies.*

> We all knew Ron was very ill. He was getting weaker and his weight had dropped from around 175 pounds to just over 100. He was quite emaciated, and even the enemy was growing aware of his plight. One day Frenchy, our interrogator, approached Ron in our corridor and told him he would have to move to the larger interrogation room and out of the tiny cell.
>
> Ron argued loudly to stay with his friends. All he wanted was a roommate. After months of solitary confinement, he needed to talk to someone. The enemy had permitted Ron no letters from home and now even though they knew his mental and physical strengths were depreciating rapidly they would not give him a roommate. They tried to separate Ron from the rest of us, but Ron would not go.
>
> Finally, Frenchy had to explain that in a few short hours his friends would be leaving Alcatraz and that he would have to remain. The Vietnamese were not hard on Ron that night. They did not make him move. All of us had heard it. Frenchy said tonight we would be moving out. After almost 2 years in Alcatraz, we would be leaving. That night we moved, one at a time, into a waiting truck, past Ron in his lonely cell. It was one of the hardest moments of my life as a POW. The worst part of being a prisoner is the helplessness to reach out and lift up another man in need. We couldn't even say goodby. They had the burp guns. They had the power.
>
> * * * We never stopped praying for Ron and for his family, but we knew we would probably never see him again until that day God chose to reunite the Alcatraz Gang in another world free from such pain and sorrow.[46]

The committee also had lengthy discussions with Mr. Ken Tomlinson, Associate Editor of *Reader's Digest*, and co-author of "P.O.W." a history of the experiences of U.S. prisoners of war in Vietnam.

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[45] For description of the POW intelligence "system" in North Vietnam, see Select Committee Hearings, part 3, pp. 102–15.

[46] Rutledge, *op cit.*, pp. 72–73.

Mr. Tomlinson described the extensive research that had gone into preparation of the book, including interviews with over 100 returned POW's. He said that he had come across no information to indicate that any Americans are still held in North Vietnam, an evaluation shared by the scores of former POW's that were questioned in depth.

ANOTHER SOUTHI FABRICATION

A report that American prisoners were being held in Son Tay prison camp after the POW exchanges in 1973 was referred to DIA for analysis. The report was previously evaluated by the intelligence community. It was sourced to a fabrication of Southi, who purported to have intercepted messages of top North Vietnamese leaders. DIA analysis of the messages indicates that they are without foundation and fact, that they are indeed fabrications. The supposed messages do not correlate with known North Vietnamese methods of communication, nor do they correlate with information on any specific individuals.

ARLO GAY AND TUCKER GOUGGLEMANN

During the course of its investigation, the select committee became aware of the imprisonment of two Americans trapped in the fall of South Vietnam. One was Arlo Gay, an American civilian seized in the Delta of South Vietnam in April 1975, imprisoned in Cantho for a time and then moved to Hanoi in October 1975. The other was Tucker Gougglemann, an employee of the CIA until his retirement in 1972. Gougglemann had returned to Vietnam in April 1975 to bring out his adopted children.

The names of both men appeared on a list of Americans in South Vietnam, prepared by the select committee and delivered to the Vietnamese on the committee's behalf by Senator George McGovern in January 1976. The committee repeatedly requested that Vietnamese authorities release the stranded Americans. After the return of 50 American citizens from South Vietnam in early August 1976, the committee immediately sent another message to Pham Van Dong specifically requesting the release of Gay and Gougglemann. The committee had been apprised that Gay could be in North Vietnam and was pleased to learn of his repatriation to the United States in September 1976. The fate of Tucker Gougglemann is unknown at the time of this printing, although the committee is in receipt of information that he was held for a long period in Chi Hoi Prison near Saigon.

Unknown to him, Gay was scheduled to depart Vietnam on August 1, 1976 with the last group of the American community still in Saigon. He escaped from his prison near Hanoi in July and evaded for 28 days, only to turn himself in in August 1976. Gay was released, together with his wife and child, on September 21, 1976.

DISCUSSIONS WITH INTERNATIONAL OFFICIALS

Chairman Montgomery had the opportunity to meet with several diplomatic officials from Eastern Europe and Asia during his participation as Congressional Advisor to the U.S. Delegation at the International Diplomatic Conference on Humanitarian Law in Armed Conflict in Geneva, Switzerland in April 1976. The select committee chairman privately asked each of the officials with whom he met for any information on the POW/MIA issue. Most of the diplomats had only cursory knowledge of the subject, but all expressed doubts that the Indochinese governments would gain any advantage in keeping American POW's. One East European official, who had been posted to Saigon recently, had conducted extensive research for his country on the subject of American POW's and MIA's in Vietnam.[47] He was firm in his conviction that the Democratic Republic of Vietnam had held no American POW's since 1973, and he conjectured that they would be unlikely to report on or return the remains of any POW's who might have been tortured to the degree that would be evident from examining the remains. Other experienced foreign diplomats expressed similar views.

CAMBODIA

Although it was not possible to visit Cambodia during this period, the committee went to great lengths in attempting to contact the Government of Cambodia. Telegrams were sent to Cambodian officials in Phnom Penh, Paris, and Peking, and personal efforts were made in Hanoi and Peking.[48]

INTERROGATION OF REFUGEES AND POW'S

The select committee requested the Department of State and the intelligence community to interrogate Cambodian refugees regarding the possibility of live Americans. The committee was assured that this is a continuing high priority for both the Department of State and the national intelligence community, but that no evidence of American POW's has been received to date.

The committee staff obtained copies of correspondence from Zalin Grant regarding his interrogation of thousands of soldiers from the Republic of Vietnam who had returned from captivity in Cambodia. The record of this correspondence substantiates the presentation given by Walter Cronkite in his testimony before the select committee and agrees that the circumstances of loss of one of the journalists missing in Cambodia indicates that he is probably dead.[49] Grant also warned of a certain intelligence fabricator who was a major source of rumor regarding live Americans in Cambodia, but who, he cautioned, should be approached with "large skepticism". A review of case files indicates that this same fabricator tried to deceive an MIA mother visiting Phnom Penh.

F-6 REPORT

Reverend Lindstrom informed a member of the select committee staff that in 1973 he had been given a sensitive report by an American serviceman alleging that 16 American prisoners were being held in two separate locations in Cambodia as of December 1972. When DIA was tasked to respond, it was learned that the report had been evaluated by American intelligence analysts in 1973. The information was third-hand; the two alleged POW camp sites were in an area in which no

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[47] This diplomat asked that he not be identified because he has family ties in Vietnam.

[48] See chapter 2 of this report for a more detailed description of these efforts. Congresswoman Schroeder of the select committee drove to the Cambodian Embassy while on an official visit to Peking, China and attempted in person to deliver a message from the committee.

[49] See Select Committee Hearings, part 3, pp. 139-40, 151, and 153.

POW's were known to have been held. None of the American POW returnees from Cambodia were held in or had knowledge of the sites.

One committee investigation dealt with an evaluation of 18 separate reports of alleged POW sightings in Indochina including one of 16 U.S. prisoners supposedly captured in Cambodia during 1973.[50]

Mr. Bruce Percifield forwarded to the committee the 18 documents referred to in this intelligence report.[51] The American intelligence community had long since had copies and advised the committee that the 18 documents had been originated by two well-known Lao intelligence fabricators, Southi and Bepone.

In 1970, Southi began receiving information from Bepone who claimed to be intercepting North Vietnamese messages. Most of these reported intercepts were exchanges of messages between the Ministry of Defense in Hanoi and various commanders in the field. A DIA analysis of the information indicated that the documents were highly suspicious and of doubtful validity, due to the inaccuracy of the substance contained therein, and with regard to the format.

Another report investigated by the committee concerns three Caucasians who were described as being clad in flight suits, reportedly in Prey Vieng Province, Cambodia, in July 1973.[52]

A DIA evaluation of this report indicates that it cannot be correlated with any Americans lost in Cambodia. The sources were reinterrogated and referred to the POW's as foreigners, not as Americans. They said that the three individuals were not constrained in any manner, contrary to normal POW-associated practices.

DIA further discredited this reported sighting when it was learned that the Khmer Rouge radio had broadcast a false claim that three U.S. advisors in Cambodia had been captured "South of Phnom Penh." Subsequent to that broadcast, several unconfirmed sighting reports were received, each claiming that three foreigners or POW's had been seen.

In summary, investigations of possible American prisoners in Cambodia affirm the possibility that a very few Americans were prisoners in 1973. No credible reports have been received since that time. In light of the bloodbath which has occurred in Cambodia since 1975 and the Cambodian denials that they have any live American prisoners,[53] one cannot be optimistic regarding the fate of these Americans.

SUMMARY

The incidents described in this chapter may seem unduly repetitious. They were included to show in part the lengths to which the committee went in tracking down rumors and to demonstrate how easy it was for unscrupulous profiteers to take advantage of MIA family members who tried so desperately to learn the fate of their loved ones.

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[50] Only five U.S. personnel were lost in Cambodia in 1973.

[51] Mr. Percifield telephoned the staff in January 1976. He voluntarily forwarded copies of memoranda and raw data furnished to him by Southi during his stay in Vientiane, Laos.

[52] This uncorrelated report was seen at the JCRC in Thailand by the father of Capt. James. Mr. James conveyed the information to Karen Martin, wife of the co-pilot, Capt. Martin. Largely on the basis of this report, the status of both men was continued as MIA. See Select Committee Hearings, part 4, pp. 92–107.

[53] These are cited in chapter 2 of this report.

The committee did not find any dereliction or malfeasance of duty on the part of Government officials as those duties relate to the POW/MIA issue. Instead, the officials queried were knowledgeable and cooperative.

Regretfully, the select committee was unable to identify any important new information to suggest that any American POW's or MIA's are still alive. The committee did identify several intelligence fabricators and amateur sleuths, virtually all of whom were already known to the intelligence community. An incredible number of rumors circulated throughout Southeast Asia; even more incredible is the speed with which they proliferated.

CHAPTER VI.—DIPLOMATIC EFFORTS

The responsibility to protect the rights of Americans abroad falls primarily to the Department of State. During the war in Vietnam and since the cease-fire in 1973, numerous charges were made and complaints lodged that the State Department was incompetent in fulfilling these responsibilities; that the provisions of the Paris Peace Agreement relative to POW's and MIA's were inadequate; and that after the Accords were signed in 1973, gaining an accounting was placed low on the State Department's list of priorities.

This examination and evaluation of the State Department's record of efforts to protect the rights of Americans in Indochina addresses these issues.

QUIET DIPLOMACY

The main focus of concern for the State Department during the war was the humane treatment of American prisoners and their return at the earliest possible date. In the years before the "Go Public" campaign launched by the executive branch in 1969, the State Department worked for these objectives quietly, primarily through diplomatic channels and through international humanitarian organizations such as the International Red Cross.[1]

At the heart of State's approach to the POW problem was the attempt to separate the POW matter from the conduct of the war itself, as the Geneva Conventions specified, and have it considered solely as a humanitarian matter. In pursuit of this goal, it sought the implementation of the Geneva Conventions by all parties to the Vietnam conflict.

Both the United States and Vietnam became signatories to the Geneva Conventions of 1949 protecting the rights and treatment of POW's. In August 1965, the International Committee of the Red Cross (ICRC) addressed an appeal to the principal parties of the Vietnam conflict, calling on them as signatories to observe the Geneva Conventions. Five points were specified in the appeal: (1) the ICRC should be permitted to serve as a neutral intermediary, (2) POW's should be treated humanely, (3) POW lists should be exchanged, (4) ICRC delegates should be allowed to visit detention camps, and (5) civilians should be spared.

According to Ambassador William H. Sullivan, Deputy Assistant Secretary of State, Bureau of East Asian and Pacific Affairs, the United States, South Vietnam, and American allies in the conflict all undertook to respect the Geneva Conventions.[2]

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[1] State's pursuit of these objectives are a matter of public record. During the war, and particularly after 1969, the State Department was asked on occasion by both Houses of Congress to testify on its efforts. For the purposes of this report, it is unnecessary to recapitulate these activities in detail. A complete list of references to these hearings can be found in the bibliography.

[2] Hon. William H. Sullivan, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs, Department of State, Hearings before the Subcommittee on National Security Policy and Scientific Developments of the Committee on Foreign Affairs, House of Representatives, Ninety-first Congress, first session, Nov. 13 and 14, 1969, p. 12.

Hereafter, this Subcommittee's hearings will be cited simply as "Zablocki Hearings", since Congressman Clement Zablocki (D-Wisc.) was Chairman of the Subcommittee throughout the period.

Ambassador Sullivan's testimony also includes a brief summary of the State Department Efforts to 1969.

The North Vietnamese and the National Liberation Front, on the other hand, rejected the August 1965 appeal of the ICRC. In fact, the Hanoi government denied the applicability of the Geneva Conventions to the conflict in Vietnam because war had not been formally declared. Further Hanoi let it be known that it considered captured pilots to be "war criminals." Thus North Vietnam would not allow representatives of the ICRC to visit detention camps, nor would it release the names of prisoners held, much less allow them to receive mail.[3]

With the failure of the ICRC appeal, the State Department attempted to influence the North Vietnamese through diplomatic channels. Neutral governments as well as governments sympathetic to North Vietnam were asked to intercede. Third-party pressures proved equally ineffective. As Ambassador Sullivan summed up the results of efforts in 1969, they produced "a bleak record." [4] He stated: "The fact that what we are requesting is no more than the minimum treatment of prisoners of war sanctioned by international law and tradition has convinced other governments and organizations to join in these efforts, but has not thus far penetrated Hanoi's intransigence." [5]

THE "GO PUBLIC" CAMPAIGN

The "Go Public" policy on POW's initiated in 1969 proved a little more effective. The essence of this campaign was to focus national and international attention on North Vietnamese intransigence and shame them into better treatment of the POW's, if not compliance with the Geneva Conventions.

Numerous government officials addressed themselves to the POW issue from 1969 to 1973. President Richard Nixon, Secretary of State William Rogers, Secretary of Defense Melvin Laird, and Undersecretary of State Elliot Richardson made strong public statements on behalf of the POW's.[6]

The American delegation to the Paris peace talks intensified the POW initiatives begun by Ambassador Averell Harriman. In his opening statement on January 25, 1969, the new American chief negotiator, Ambassador Henry Cabot Lodge, urged a prisoner exchange at the earliest date. In the following years of negotiations, the American delegation repeatedly attempted to discuss the quick release and humane treatment of prisoners, offering proposal after proposal. Their repeated efforts were rebuffed by the North Vietnamese, who stated that American prisoners would be returned only after the war, when American troops were withdrawn.[7]

The appeal for humanitarian treatment of American POW's was carried to the United Nations, where an American representative again emphasized the humanitarian character of the Geneva Conventions and called on UN members to use their influence on Vietnam.[8] The State Department supported the POW resolution adopted by the ICRC at its Istanbul Conference in September 1969, and when the House of Representatives later took under consideration a resolution based on the Istanbul statement, the Department offered testimony in support of that motion.[9] At the grass roots level, State officials met with MIA/POW next of kin throughout the country, and when family members decided to go to Paris to confront the Vietnamese delegation face to face, the Department of State facilitated their travels.

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[3] For a thorough study of North Vietnamese obligations under the Geneva Conventions, see Paul de la Pradelle. *North Vietnam and the Geneva Humanitarian Conventions* (Paris: Editions A. Pedone. 1971).

Professor La Pradelle's article appeared originally in *Revue Generale De Droit International Public*. It was translated by the American Red Cross and circulated as a pamphlet.

[4] *Ibid.*, p. 13.

[5] *Ibid.*

[6] For a selection of statements by American officials, see Zablocki Hearings. Ninety-first Congress, 1st Session, November 13 and 14, 1969, pp. 10. 11; 2d Session, May 6, 1970, p. 91.

[7] For a brief review of statements. see Zablocki Hearings. Ninety-first Congress. 1st Session, November 13, 1969, p. 11, 114–117; 2d Session, April–May 1970, pp. 131–148.

The "Go Public" campaign did have some positive results. In 1970, the North Vietnamese released a list of names of 335 prisoners. The list was not released to officials of the American government, however, but to representatives of the Committe of Liaison with Families and Servicemen detained in North Vietnam, a private organization with support from a broad coalition of anti-war groups. At the same time, mail privileges for POW's were broadened beyond the few selected cases previously accorded that luxury.

When Ambassador Sullivan appeared again in early February 1972, before a House subcommittee to report on efforts to gain release of the POW's, his report included a recitation of continued Vietnamese intransigence and rebuffed American initiatives. In fact, he reported a deterioration in the few mail privileges which had been granted the American POW's.

Ambassador Sullivan also testified before Congress on the continued efforts in Paris to gain information on MIA's and POW's. Probably in response to the charge that the Nixon administration was inflating the number of missing Americans to gain leverage in the negotiations, the Ambassador commented:

> We recognize, of course, that many of the men listed as missing in Indochina are almost certainly dead. But without a full accounting, and without the right of all prisoners to correspond regularly with their families, the anguish of uncertainty continues. Surely the identification of all prisoners should transcend the issues of this or any other conflict. There can be no justification for the other side's policy in Indochina on this humanitarian question.[10]

It was clear to the Ambassador, as it was to many Americans, that the North Vietnamese were using the POW's as political pawns and were uninterested in the humanitarian aspects of the problem.

> They are attempting coldly, ruthlessly to use prisoners that they hold, our prisoners, as leverage for the achievement of political objectives which they have not been able to accomplish either by military or psychological means. We know that is in their minds and we certainly are aware that that is the mentality with which we are dealing. We think, however, that

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[8] Zablocki Hearings, Ninety-first Congress, 1st Session, November 13, 1969, pp. 13, 88–91.

[9] *Ibid, passim.* See also Zablocki Hearings, Ninety-first Congress, 2d Session, April 29, 1970, pp. 2–3.

[10] Zablocki Hearings, 92d Cong., 2d Sess., part 3, February 3, March 16, 1972, p. 10.

> in making and in formulating proposals we have to treat that sort of mentality as one would treat any other blackmailer attempting to extract ransom and extortion from a law-abiding citizen.[11]

By 1972, however, the distrust and division generated by the war and the concomitant suspicion of government officials had politicized the POW issue in the United States as well. Officials of President Nixon's administration were themselves accused of using POW's as pawns at the negotiating table. Ambassador Sullivan was asked to address this charge, as well as the charge that the administration was more interested in supporting the Thieu government than in obtaining the release of American POW's.[12]

Gaining an Accounting: Vietnam

THE PARIS PEACE AGREEMENT

While the State Department worked to bring world opinion to bear on the Vietnamese, the central focus on its efforts to gain release of the POW's continued to be the negotiations in Paris. For the American delegation, the release of the POW's was one of the most important elements to be negotiated. In the course of those long negotiations, various reports about the POW issue were circulated. Reporting on the negotiations, the contemporary press spoke of the return of American POW's as an absolutely separate item of the proposed truce; at other times, the return of American POW's was tied to the withdrawal of American troops from Vietnam and/or support of the Thieu regime.[13]

After more than 4½ years of negotiations, President Nixon announced in a national address on January 23, 1973, that the long-sought peace agreement would be signed on January 27. Within 60 days of the signing, he noted, all American prisoners of war held throughout Indochina would be released. He also assured the Nation that "there will be the fullest possible accounting for all those who are missing in action." [14] The context in which the President made this statement on accounting led many to believe that the accounting, too, would be given within 60 days of the signing.[15]

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[11] *Ibid.*, p. 14.

[12] For these charges and Ambassador Sullivan's responses, see Zablocki Hearings, 92d Cong., 1st Sess., pp. 156–173; and 92d Cong., 2d Sess., pp. 18, 166–171.

[13] The complex history of the POW issue in the Paris negotiations until August 1972 is summarized in a Congressional Research Service study by Luella Sue Christopher, "Prisoners of War in Indochina, 1971–1972: Legal Issues, Policies, and Initiatives of Major Parties to the Conflict, and Efforts to Secure Release" (JX 514)—72–181F, August 1972). Ms. Christopher concluded that "The prisoner of war issue has been an important element in virtually every proposal put forth by the United States, North Vietnam, and the National Liberation Front to achieve a negotiated settlement of the Indochina conflict" (p. 20).

For a selection of newspaper articles, see Zablocki Hearings, 92d Cong., 2d Sess., pp. 151–56, 166–69.

[14] "Address by President Nixon, January 23", Department of State Publication 8695. East Asian and Pacific Series 208, released February 1973, Office of Media Services, Bureau of Public Affairs, p. 1.

[15] The select committee questioned the State Department on this aspect of the President's address. State's reply was as follows: "President Nixon said all POW's would be released within 60 days. In a separate sentence he went on to say 'There will be the fullest possible accounting for all of those who are MIA.' The latter was not tied to the 60-day period." See Select Committee Hearings, part 5.

Technically and grammatically, this answer is correct. The unmistakable impression, however, was that an accounting would take place in the same 60-day period. Such an understanding was reinforced by Dr. Kissinger's comments the following day. For Dr. Kissinger's comments, see p. 110.

Provisions for the release of prisoners and information on the MIA's were contained in Chapter III, Articles 8(a) and 8(b) of the Paris Peace Agreement.

Article 8

> (a) The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed not later than the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured military personnel and foreign civilians on the day of the signing of this Agreement.
>
> (b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

The mechanisms to implement these provisions were specified in Article 16. A Four Party Joint Military Commission (FPJMC) was to begin operating immediately and end its activities in 60 days, after the withdrawal of the American forces and the completion of the return of captured military personnel and foreign civilians. After 60 days, its remaining functions were to be taken over by a Four Party Joint Military Team (FPJMT) whose composition and operations were set forth in the Agreement.

The implementation of Article 8 was specified further in a "Protocol on Prisoners and Detainees", which went into effect at the same time as the Paris Peace Agreement.[16] The Protocol called for an exchange of complete lists of prisoners. Of special interest, it called for the return of all prisoners.

> The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced.

The Protocol further specified the humane treatment prisoners should receive prior to their release and called for the inspection of all prisoner detention centers by national Red Cross societies within 15 days. Article 10 of the Protocol reiterated that when the FPJMC ended its activities implementing article 8(b) of the agreement relative to information on the missing and repatriation of remains, it was to be succeeded by an FPJMT.

Several important considerations evident in the Agreement and Protocol relative to the POW/MIA issue deserve to be emphasized. First, the return of American prisoners was directly related to the phased withdrawal of American troops. Second, it was understood under article 6 of the Protocols that all prisoners would be returned, including so-called "war criminals". There was good reason for the precise wording of this article. When North Vietnam became party to the

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[16] The full text of the Protocol on Prisoners and Detainees is reprinted in Select Committee Hearings, Part 4, pp. 219–222.

Geneva Convention on prisoners of war in 1957, it did so with three reservations. The most important of these stated that:

> Prisoners of war prosecuted and convicted for war crimes or crimes against humanity, in accordance with the principles laid down by the Nuremberg Court of Justice, shall not benefit from the present Convention. . . .[17]

It should be recalled that North Vietnam at one time considered American pilots "war criminals". Article 6 of the Protocol was drawn up specifically to prevent continued detention of prisoners for any such reason.

Third, the very provision for an FPJMT to succeed the FPJMC after its 60-day tenure was a sign that gaining an accounting and the repatriation of remains might involve a protracted process if it were to be done properly.

Fourth, the Agreement and Protocol dealt, on the formal, public level, only with Americans missing in North and South Vietnam. Nowhere was mention made of Americans missing in Laos and Cambodia.

Finally, the text of the agreement gives no indication at all that article 8 was to be considered separate from other articles, as Dr. Kissinger was to suggest later, or that its implementation was linked with any other particular article, as the Vietnamese later linked it to article 21. The most obvious interpretation is that the Articles of the Paris Agreement were interdependent and meant to be implemented simultaneously, insofar as that was possible.

On January 24, 1973, shortly before the signing of the Accords and Protocol, Dr. Henry A. Kissinger, then Assistant to the President for National Security Affairs, held a news conference explaining the text of the Accords and the Protocol.

The return of American prisoners, he remarked, "presented enormous difficulties for us" throughout the negotiations.[18] Dr. Kissinger was optimistic.

> The return of American personnel and the accounting of missing in action is unconditional and will take place within the same time frame as the American withdrawal.[19]

Thus, Dr. Kissinger reinforced the expectation raised by President Nixon a day earlier. An accounting would be given within 60 days.

It should be also noted that there was nothing in the agreement to indicate that an accounting for MIA's was "unconditional" and, in light of the provisions to extend the activities of the FPJMC relative to MIA's after its 60-day limitation, Dr. Kissinger was indeed optimistic about information on the MIA's coming "within the same time frame as the American withdrawal".[20]

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[17] This text is included in Pradelle *op. cit*, p. 2.

[18] "Dr. Kissinger's News Conference, January 24, 1973", Department of State Publication 8605, East Asian and Pacific Series 208, released February 1973. Office of Media Services, Bureau of Public Affairs, p. 4. Reprinted in Select Committee Hearings, part 5.

[19] *Ibid.*

[20] The select committee later inquired of the State Department whether Dr. Kissinger had any private information on which he based this statement about gaining an accounting. He had none. See Select Committee Hearings, part 5. An alternative explanation to Dr. Kissinger's remarks is that he was attempting to convey to the Vietnamese that this was his understanding, in the hope that his conveyance of this interpretation would influence the Vietnamese to account for the missing.

Dr. Kissinger added another note about matters not found in the agreement, commenting:

> We have been told that no American prisoners are held in Cambodia. American prisoners held in Laos and North Vietnam will be returned to us in Hanoi.[21]

Like President Nixon in his address to the Nation a day earlier, Dr. Kissinger was saying that all American prisoners of war held throughout Indochina would be released, though formally and officially, the Paris Agreement dealt with peace in Vietnam alone.

Another part of the agreement, which was later to become an important issue for the Vietnamese, and their expressed rationale for not implementing article 8(b) was article 21.

> The United States anticipates that this agreement will usher in an era of reconciliation with the Democratic Republic of Vietnam as with all the peoples of Indochina. In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to postwar reconstruction of the Democratic Republic of Vietnam and throughout Indochina.

Dr. Kissinger spoke of this article only in very general terms, expressing the hope of moving gradually from hostility to conciliation and cooperation:

> And we believe that under conditions of peace we can contribute throughout Indochina to a realization of the humane aspirations of all the people of Indochina.[22]

Asked later about a dollar amount involved in reconstruction aid, Dr. Kissinger replied:

> We will discuss the issue of economic reconstruction of all of Indochina, including North Vietnam, only after the signature of the agreements and after the implementation is well advanced. And the definition of any particular sum will have to await the discussions which will take place after the agreements are in force.[23]

Finally, Dr. Kissinger commented in the press conference that there were clarifications of certain phrases read into the record, but these he averred, had been explained in "these briefings" and "there are no secret understandings." [24]

Some of the clarifications to which Dr. Kissinger referred were undoubtedly those contained in the memorandum, "Interpretations of the Agreement on Ending the War and Restoring Peace in Vietnam", written by George Aldrich, then a legal advisor to the American delegation at the Paris Talks.[25]

The North Vietnamese had taken great pains to disguise their massive military program in Laos. In the privacy of negotiations, at least, they could accept responsibility for American prisoners in Laos. As the Aldrich memorandum read in a passage that clearly marked an important achievement of the American negotiators in Paris, "The U.S. prisoners in Laos are to be released within 60 days." The memorandum continued:

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[21] "Dr. Kissinger's News Conference, January 24, 1973", *op. cit.*, p. 4.

[22] *Ibid.*, p. 6.

[23] *Ibid.*, p. 14.

[24] *Ibid.*

[25] The complete text of this document is printed in Part 5 of the Select Committee Hearings. Page references are to that volume. Hereafter, this document is referred to as the Aldrich memorandum.

> The DRV has assured us that, although not covered by the agreement, "all U.S. military and civilian prisoners detained in Laos shall be released no later than 60 days following the signature of the agreement." The DRV has also assured us that it would be responsible for making the necessary arrangements with the Pathet Lao.
>
> Article 8(b) of the agreement concerning the account for missing in action and the location of graves does not apply to Laos. Similarly, the functions of the Four Party Joint Military Commission with regard to dead and missing persons under Article 10(a) of the protocol on the return of prisoners, do not extend to Laos. Therefore, it will be necessary to conclude further arrangements for tracing the missing and finding graves in Laos.[26]

A later passage relevant to prisoner exchange read:

> Articles 6 and 8(b) of the Prisoner Protocol state: "The detained parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced." As applied to military personnel and foreign civilians, this provision seems clear and desirable since the Geneva POW convention permits continued detention after hostilities in the event of criminal trial and imprisonment.[27]

The provisions of the Paris Peace Agreement relative to POW's and MIA's and the Protocol on Prisoners and Detainees appear, at first glance and after more thoughtful consideration, not only adequate, but excellent.

As Mr. Philip Habib, Under Secretary of State for Political Affairs, evaluated the MIA provisions in a hearing before the select committee:

> This MIA accounting requirement is the most explicit ever concluded, and I know of no previous case in which a special body [FPJMT] was established by such an agreement specifically for this purpose.[28]

These provisions constitute an achievement of which the American negotiators and the American people could be proud. Their true success, however, depended on their implementation, and their implementation depended on the cooperation of all parties.

THE AFTERMATH OF THE PARIS PEACE AGREEMENT

The Paris Peace Agreement did not end the war in Vietnam. Signed on January 27, 1973, the agreement did signal critical changes in

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[26] *Ibid.*, pp. 7–8.
[27] *Ibid.*, p. 12.
[28] Select Committee Hearings, part 5.

American-Vietnamese relations. First, a large number of American prisoners (591) was returned. Second, the American Forces withdrew from Vietnam. However, it must be clearly understood that the Paris Peace Agreement did not end the war; it established an uneasy cease-fire. That truce was broken so frequently that the overwhelming problem in the following months was the maintenance of the cease-fire.

That problem profoundly affected every aspect of the Paris Peace Agreement—in particular, the provisions related to accounting for missing Americans. No matter how adequate or excellent those provisions were on paper, it was their implementation that was crucial. No matter whether or not they were understood by all parties to the Paris Agreement to be unconditional and an entirely separate item of the agreement, as Dr. Kissinger suggested, they were operationally interdependent with other articles of the agreement. Their implementation was quickly impeded and finally halted by the continued hostility. The fact is, after the agreement was signed, the struggle continued, less openly and less heatedly than previously—but it continued.

Those hostilities profoundly affected two mechanisms established by the agreement, one directly involved with the return of prisoners and information on MIA's, the other linked to the POW/MIA issue at a later period. These mechanisms were the Joint Economic Commission and the Four Power joint military team.

The Joint Economic Commission

On February 14, 1973, in a joint communique published at the same time in Hanoi and Washington, the formation of a Joint Economic Commission (JEC) was announced.[29] Following closely 3 days of discussion in Hanoi between Dr. Kissinger and North Vietnamese officials, the JEC was to work out the details of article 21 of the agreement, which spoke only generically about American contributions to "healing the wounds of war" and postwar reconstruction aid to Vietnam.

The idea of postwar reconstruction aid to Vietnam did not originate with the Paris Peace Agreement.[30] In fact, it was President Johnson who had first articulated this proposal in an address at Johns Hopkins University in 1965. A great deal of time and study was devoted to this proposal during the Johnson administration, and under the Presidency of Richard Nixon, the proposal was even more widely publicized.

For example, in January 1972, Dr. Henry Kissinger, then National Security Advisor, said in a press conference that there would be no reparations for North Vietnam, but there would be a "voluntary undertaking" for all of Indochina, including North Vietnam, to the extent of several billion dollars.

In his Annual Foreign Policy Report on February 9, 1972, President Nixon announced that North Vietnam would share to the extent of $2.5 billion in his reconstruction program. This message was repeated by the President and other administration officials during 1972.

North Vietnam was consistently included in the program, but always on the condition that North Vietnam cease military operations in South Vietnam.

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[29] The text of this communique can be found in the *New York Times*, February 15, 1973.

[30] For an excellent collection of public statements on reconstruction aid to Vietnam, see the Congressional Research Service's monograph edited by Marjorie Niehaus, entitled "A Chronology of Selected Statements by Administration Officials on the Subject of Post-War Reconstruction Aid to Indochina: April 7, 1965–April 4, 1973".

Because various proposals for a reconstruction program were widely publicized and because any proposal for postwar aid was extremely controversial, aid provisions included in the cease-fire agreements were scrutinized closely as to the nature and the amount of any American commitment.

The day after the signature of the agreement, on January 28, 1973, Senator Michael J. Mansfield (D-Mont.) said he had been assured by Dr. Kissinger that there had been no negotiations or agreements on possible aid to North Vietnam. Mansfield quoted Kissinger as saying, "Before anything about this is done, Congress will be consulted."[31]

In a news conference a fews days later, on January 31, President Nixon stated:

> I cannot give you that figure [for reconstruction aid] now, because it is a matter that has to be negotiated and it must be all part of one pattern. * * * The figures, of course, will come out, but they must first be discussed with the bipartisan leadership.[32]

The following day, in an interview with Marvin Kalb of CBS-TV on February 1, Dr. Kissinger commented on a question concerning a dollar amount of $7.5 billion, $2.5 billion of which would go to North Vietnam:

> Well, that was a projection that was used about a year ago. * * * Any projection we make would be fully discussed with the bipartisan leadership and fully discussed in public before it became our policy.[33]

In the public statements of administration officials, aid was still considered conditional. Reconstruction aid depended on the observance of the cease-fire agreements and on congressional approval. Administration officials repeatedly said that dollar figures would be subject to consultation with and approval by Congress.

The Nixon-Pham Van Dong Correspondence

This much, at least, is a matter of public record. There were, however, related matters under private discussion at this time, as members of the select committee learned to their consternation when they were in Hanoi for discussions with Vietnamese officials in December 1975.

During a discussion in Hanoi with Mr. Phan Hien, Deputy Foreign Minister, Mr. Hien spoke of correspondence between President Nixon and North Vietnamese Premier Pham Van Dong. Specifically, he mentioned a letter dated February 1, 1973, from President Nixon to the Premier, in which President Nixon allegedly made an unconditional promise of reconstruction aid to Vietnam, which a U.S. preliminary study indicated would total $3.25 billion. This disclosure came as something of a surprise to the American delegation, since at an earlier meeting with Secretary of State Henry Kissinger, they had been led to believe that no documents directly pertinent to article 21 of the Paris Peace Agreement had been or were being withheld from them.[34]

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[31] *Washington Post*, January 28, 1973.
[32] Cited by Niehaus, *op. cit.*, p. 11.
[33] *Ibid.*

The Deputy Foreign Minister did not show the memorandum to members of the American delegation, nor did he provide a copy or mention the Vietnamese response. He later gave the delegation a list of materials the reconstruction aid was to have provided. He did not discuss the origin of the list.[35]

However, in April 1976, *Nhan Dan*, the leading Hanoi newspaper, published alleged excerpts from President Nixon's letter. The President's letter supposedly said the following:

> The U.S. Government will contribute to the postwar reconstruction in North Vietnam without any political conditions whatsoever.
>
> U.S. preliminary studies show that programs appropriate for a U.S. contribution to the aforementioned postwar reconstruction will amount to about $3.25 billion in nonrefundable aid for a period of 5 years. The two sides will agree upon other forms of aid. This estimate will be reexamined and discussed in detail by the U.S. and DRV governments.[36]

Upon return to the United States, the select committee attempted to verify the nature and details of this correspondence. On February 2, 1976, Chairman G. V. Montgomery telephoned former President Richard Nixon to make inquiries about this correspondence. Mr. Nixon assured the chairman that the reconstruction program, which had been under consideration for several years, was contingent upon Vietnamese compliance with the Paris Peace Agreement and congressional approval.

An attempt was made to gain a copy of this letter from the National Security Council. National Security Advisor Lt. Gen. Brent Scowcroft declined to provide a copy of this correspondence, citing executive privilege.

Finally, on March 12, 1976, in its second meeting with Secretary of State Henry Kissinger, the select committee sought further information on the Nixon memorandum to Pham Van Dong.

Dr. Kissinger stated that after reviewing all written and oral exchanges that had occurred during the pertinent 1973 time period, he was convinced that even his most severe congressional critics would be proud of the way in which matters had been handled. He said that no unconditional commitment had been made to the Vietnamese, either in the Nixon letter or in the Joint Economic Commission discussions. The figures discussed in JEC meetings were planning figures only, he emphasized, and that was made clear to the Vietnamese at all times, as were the constitutional procedures that would be necessary to provide aid. Congressional prerogatives had been included and emphasized. Another condition for reconstruction aid, he said, was an armistice in Laos and Cambodia. There had been no unconditional commitments.

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[34] Asked by Congressman Henry B. Gonzalez if there were any memoranda or codicils in conjunction with the Paris Peace Accords concerning Article 21, Dr. Kissinger responded that there was a side codicil expounding what the United States would do within the Constitution. This codicil, he said, had been submitted to Congress.

Memorandum for the record: Meeting with Secretary of State Henry Kissinger, November 14, 1976, in the files of the House Select Committee on Missing Persons in Southeast Asia.

Neither congressional nor State sources could identify the document referred to by Dr. Kissinger.

[35] The list described is included at appendix I.

[36] Foreign Broadcast Information Service, April 16, 1976, K 1.

On the failure to produce a copy of the Nixon-Pham Van Dong letter, Dr. Kissinger remarked that he could not produce Presidential papers. He did remark, however, that the JEC operated in the $3-billion range.

Dr. Kissinger reemphasized that in setting up the JEC, it was made clear that congressional action was the key. At no time did the U.S. negotiators at the JEC talks ever say absolutely that the United States would provide aid.[37]

The Nixon letter to Pham Van Dong was the object of further questioning when Under Secretary of State for Political Affairs Philip Habib testified before the select committee on July 21. Mr. Habib responded:

> Let me make the answer very specific. There is no agreement, there was no agreement, there never was an agreement as far as I know, and I think I would know at this stage. We have researched it and there is no agreement with respect to the question of aid involved in that letter.
>
> That letter was simply a letter primarily designed to set up a joint economic commission pursuant to Article 21 of the Paris Agreements. The truth of the matter is there was no agreement.[38]

Mr. Habib declined to provide the select committee with a copy of the letter. However, at a later date, he did provide the select committee with a summary of Mr. Nixon's letter to the North Vietnamese Premier. This summary reaffirmed earlier statements by the Secretary of State and Mr. Habib:

> The purpose of the letter (from President Nixon to Premier Pham Van Dong) was to advise the North Vietnamese of our preliminary financial estimates of the composition of our reconstruction program, to propose the establishment of a Joint Economic Commission to coordinate this reconstruction effort, and to record our understanding that each party could implement the recommendations of the Joint Economic Commission in accordance with its own constitutional procedures.

Mr. Habib denied that the letter contained any pledges or promises of aid. The dollar figure mentioned "indicated the general range within which we were considering postwar assistance."

According to Mr. Habib, the letter indicated the figure was subject to revision and further discussion.[39]

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[37] Memorandum for the Record: Meeting with Secretary of State Henry Kissinger, March 12, 1976, in House Select Committee files.

[38] Select Committee Hearings, part 5.

[39] This letter in its entirety can be found in Select Committee Hearings, part 5.

A source generally reliable on these specific matters has stated that there were two letters, not one, from President Nixon to Premier Pham Van Dong, in late January–early February 1973. The first letter supposedly contained the proposal for aid, with $3.25 billion figure indicated by preliminary studies. The second letter allegedly specified the constitutional procedures that would be involved in any reconstruction aid program for North Vietnam. According to the source, these letters had been the object of lengthy negotiations, during which the Vietnamese had argued hard and insistently for the $3.25 billion figure.

In response to a Select Committee request for verification of this report, National Security Advisor Gen. Brent Scowcroft categorically denied a second communication. Letter to Chairman G. V. Montgomery, October 27, 1976.

The correspondence between President Nixon and Premier Pham Van Dong of early February 1973 has been cited in the press as a "secret agreement". Until the American public has direct access to this correspondence, some suspicions of this kind will undoubtedly remain. However, in the haste to expose a "secret understanding", rather than normal preliminary, private negotiations the two central questions at stake should not be obscured; first, was there a promise of unconditional aid? Second, were dollar amounts discussed in more than an exploratory, negotiable manner?

On the first point, it must be observed that the select committee has only the word of the Vietnamese government, which has much to gain, that the correspondence contained an unconditional promise. The word of a single party with strong interest in the results is not widely accepted as a solid base on which to build a case. A strong dose of skepticism would appear reasonable and healthy.

On the other hand, the chief American parties involved have denied there was such an unconditional promise. Moreover, it is wholly unlikely that the President would promise reconstruction aid unconditionally when he knew approval from an unsympathetic Congress was required. The fact that all known administration references to aid were conditional tends to support this argument.

In answer to the second question, it is certain that dollar amounts were discussed privately in at least a preliminary way. Even the guarded public statements of administration officials mentioned billion dollar figures.

The Nixon-Pham Van Dong correspondence of early February 1973 and Dr. Kissinger's visit to Hanoi during the same period undoubtedly influenced the origin and development of the Joint Economic Commission, though the precise manner must await future historians with greater access to documents.

JEC Talks

After the formation of the JEC was announced on February 14, 1973, administration officials assured the public that aid depended on the observance of the cease-fire agreements, and while the administration refused to discuss dollar amounts, it referred to a former figure of $2.5 billion in aid to North Vietnam as "illustrative", and "only suggestive".[40]

Even before the meetings began, Maurice J. Williams, head of the U.S. delegation, stated that the United States would initially seek North Vietnam's appraisal of its reconstruction needs and its concepts for dealing with them.

In March 1973, the JEC meetings began in Paris. Problems with observance of the cease-fire agreements soon interrupted the talks. On April 19, 1973, the United States suspended the talks, charging that North Vietnam had violated the agreements. It was reported that up to that date, both sides had reached agreement on the principles and procedures of aid. According to administration spokesmen, it was clearly understood that possible aid depended on the observance of the cease-fire, and during these months, the administration continued to assure Congress that it would be consulted before any specific aid amount was pledged to Hanoi.[41]

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[40] *New York Times*, March 9, 1973; June 12, 1973.

[41] For a selection of these statements, see Niehaus, *op. cit.*, pp. 13–16. See also *New York Times*, June 12, 1973.

After new agreements calling for strict observance of the cease-fire were signed in mid-June 1973, the JEC talks recommenced on June 19. A month later they were temporarily suspended. On that occasion, the two parties published a joint statement:

> The United States—Republic of Vietnam Joint Economic Commission resumed its work from June 19 to July 23, 1973. No conclusions have been reached.
>
> The two parties have temporarily suspended their meetings in order to report to their respective Governments.[42]

Subsequently, controversy developed between the North Vietnamese and the American delegation about what conclusions had been reached in the JEC discussions. Le Duc Tho, chief of the Vietnamese delegation, stated that the United States had agreed to a 5-year reconstruction aid plan but was delaying the signing, "illogically" linking the implementation of article 21 to other provisions of the Paris Peace Agreement.

Maurice Williams, chief of the American delegation, held the position that no agreement existed without signatures and insisted that what the North Vietnamese were calling "plans" and "agreements" were nothing but "proposals". Williams went on to say that the United States had consistently linked article 21 with other provisions of the Paris peace accords. Specifically, he cited linkage to article 20, which required cessation of hostilities and withdrawal of forces from Laos and Cambodia. Williams was quoted as saying:

> No conclusion can be reached until fighting ceases on all fronts * * * We can't get far along discussing postwar reconstruction until it is truly postwar throughout Indochina.[43]

The talks never resumed.

The FPJMT

The Four Party Joint Military Team (FPJMT) in Saigon was the primary mechanism established by the accords to provide information on personnel missing in Vietnam, and it was on these discussions that the administration centered its hopes for an accounting. The American Embassy in Saigon was in close contact with the FPJMT negotiators and provided the team with political guidance.[44] Additionally, other diplomatic channels were utilized to press the Hanoi authorities to give an accounting. According to Under Secretary of State Philip Habib:

> In a sense, the Paris negotiations continued through 1973 and into 1974—and a major part of our exchanges concerned MIA accounting. When Dr. Kissinger flew to Hanoi in February 1973, he brought with him folders of information on a number of our men on which information was likely to be available in North Vietnam. We raised the MIA accounting

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[42] *New York Times*, June 24, 1973.

[43] *The Washington Post*, August 3, 1973.

[44] The failure of this mechanism to gain an accounting from the North Vietnamese is recounted in Chapter VII of this report.

> subject in each subsequent contact with the Hanoi authorities and pressed it in a number of formal diplomatic notes . . .[45]

For example, on July 29, 1973, the Department of State sent a formal note to the North Vietnamese government strongly protesting their failure to live up to their humanitarian obligations as articulated in article 8(b) of the Paris Agreement. That note read in part:

> The accounting for the missing and the repatriation of remains are purely humanitarian obligations unrelated to other issues. They could have been largely carried out by now if a spirit of good will and cooperation had been manifested on this subject. This would have brought solace to the families and loved ones of the more than 1,300 Americans listed as missing, and of those who have died but whose bodies have not been returned.[46]

The failure of the United States to implement article 21 and contribute to "healing the wounds of war" has, of late, become the reason cited by the North Vietnamese for their own refusal to implement article 8(b) of the Paris Agreement and give an accounting. It is interesting to observe that the Vietnamese did not use this argument during 1973, 1974 or 1975 at any of the FPJMT discussions at Camp Davis near Saigon.

Early in those discussions it was evident that the DRV and PRG Vietnamese delegations had gathered information on missing Americans and were withholding it. The reasons they cited for delaying full cooperation and giving an accounting were many and varied—the need to work out procedural details, alleged cease-fire violations, American support of the Thieu government, et cetera—but not once did either delegation cite the American failure to implement article 21 as the reason for their failure to comply with article 8(b). Even after the JEC talks terminated in July 1973, no mention was ever made of this fact in subsequent FPJMT discussions as the reason for failing to give an accounting.[47]

The fact is the Vietnamese did not begin to link articles 8(b) and 21 until well after North Vietnamese military forces overran the South in April 1975. Then, and only then when their drive to the South had been completed in gross violation of the Paris agreement, did they being to link these two articles and begin to make overtures of bargaining an accounting for American reconstruction aid, claiming a binding obligation of the Paris Peace Agreement still existed.

The historical record, then, shows no specific linkage between articles 8(b) and 21 of the Paris Peace Agreement and no specific linkage between the JEC and FPJMT discussions. In the final analysis, the conflicts that brought about the collapse of both mechanisms were only the symptoms of an underlying, central conflict—North Vietnamese determination to reunify Vietnam, the Paris Peace Agreement notwithstanding.[48]

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[45] House Select Committee Hearings, part 5.

[46] Zablocki Hearings, 93d Cong., 1st Sess., December 5, 1973, p. 12.

[47] These statements are based on the following documents published by the Department of Defense: "The U.S. Delegation: Four Party Joint Military Team Negotiating Chronology, 1973–1975", an annotated account of the negotiations session-by-session: "U.S. Delegation: Four Party Joint Military Team History, 31 March 1973–31 December 1973": "U.S. Delegation: Four Party Joint Military Team History, 31 March 1973–30 April 1975".

If the North Vietnamese ever intended to give an accounting, it is not evident in the history of the FPJMT.

Efforts in South Vietnam

The Department of State did not rely solely on the FPJMT diplomatic channels in its pursuit of an accounting. Where there was opportunity to pursue information through other methods, there is evidence the Department of State took advantage of the situation. In South Vietnam, where 897 Americans were missing, there existed limited accessibility to territory, good intelligence resources, and a friendly government in support of American pursuit of information on the missing. Beginning with the Embassy in Saigon, the Department of State, in close conjunction with the Joint Casualty Resolution Center (JCRC), organized an operational program that gained significant information on missing Americans.

Several officials at the American Embassy were responsible for the pursuit of information on missing Americans. In addition to his responsibility to provide political guidance to the U.S. delegation to the FPJMT, Ambassador Graham Martin had a strong personal and official interest in the matter. He was supported by his Minister for Political Affairs, Mr. Josiah Bennett, who was directly involved with MIA/POW matters, and by staff personnel in the Division of Political-Military Affairs.

At the four consulates general in Da Nang, Nha Trang, Can Tho, and Bien Hoa, each consul general was instructed to be on the alert for information on missing Americans.

Staff personnel at each consulate were briefed by Brig. Gen. Kingston, commanding officer of the JCRC, on JCRC search, identification, and evaluation techniques, and in the late fall of 1973 JCRC personnel were assigned as full-time liaison officers to each of the consulates to develop information on crash and gravesites, evaluate reports and rumors of live Americans, work with local Vietnamese officials, and estimate security risks when crash-site investigations were under consideration. Each of the JCRC personnel at the consulates was supported by several Vietnamese.

On the provincial level, each of the 44 provinces in South Vietnam had at least one American provincial representative, often associated with the U.S. Agency for International Development (USAID), who were instructed by the Embassy to be alert for any information on missing Americans, crash sites, and gravesites.[49] The provincial representatives also worked closely with JCRC.

Department of State efforts to gain an accounting in South Vietnam contributed to the Department of Defense efforts through the Joint

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[48] There is some evidence to indicate it was the United States that began linking the two Articles. See, for example, "U.S. Aid to North Viet-Nam", State Department Public Information Series, September 28, 1973, p. 2:

"It should be emphasized, however, that we are not now prepared to move forward with such an assistance program for North Viet-Nam. North Viet-Nam has to date failed substantially to live up to a number of the important terms of the Peace Agreement, including those provisions relating to the accounting for our missing-in-action. The Joint Economic Commission of the United States and North Viet-Nam has held a number of technical meetings in Paris, but given our dissatisfaction with North Vietnamese ceasefire performance, the meetings have been recessed. We have left no doubt in the minds of the North Vietnamese that we cannot pursue reconstruction in the North in isolation from fulfillment of the other provisions of the Paris Peace Agreement."

[49] Many internal memoranda, including instructions on MIA matters, were hastily destroyed in March–April 1975, when American officials were forced to abandon their residences.

Casualty Resolution Center, though it is difficult to evaluate the magnitude of State's contribution. Working together, the two agencies launched an extensive, concerted program to gain an accounting. Between 1973 and 1975, that program was expanded to include more and more indigenous personnel and to obtain maximum audience through the use of mass media.

THE PROGRAM

Initially, the program to solicit information and assistance utilized primarily American and Vietnamese officials, including Vietnamese officials and ARVN units at the province, district, and village levels. This aspect of the program was gradually broadened to include an increased indigenous force at the grass-roots level. In February 1975, the JCRC hired additional Vietnamese to assist at various local levels; face-to-face village and hamlet contacts were increased, and an attempt was made to gain the support of numerous religious leaders throughout South Vietnam.

Throughout this period, GVN intelligence agencies provided to U.S. authorities, extensive information gleaned during interrogation of prisoners, refugees, and defectors or ralliers. A considerable amount of important information about individual Americans and groups of Americans was obtained during the period 1973–75.[50]

Collaterally with the cooperative intelligence collection program, a publicity campaign using the mass media was developed to solicit information from the native population. On March 12, 1974, the American Embassy in Saigon approved a country-wide public communications program that included posters, leaflets, handbills, wall and pocket calendars, radio and TV announcements, and extensive contacts with indigenous locals. These efforts continued into 1975 until the invading armies of the North Vietnamese slowed, then halted, the operations completely.

The most significant results of these efforts were the recovery of 59 remains, but through these various means, efforts were made to resolve the status of 766, or 85 percent, of the unresolved cases in South Vietnam.[51]

GAINING AN ACCOUNTING: LAOS

The State Department's efforts to gain release of American prisoners in Laos was a more difficult and complex task.

The war in Laos was fought against a coalition of Pathet Lao insurgents and North Vietnamese Army regulars. Working on the premise that the war in Laos was directed primarily by North Vietnamese forces, despite North Vietnamese protestations to the contrary, State directed at the Hanoi government its primary efforts to gain the release of the Americans captured in Laos.

That effort paid off when the North Vietnamese privately agreed at the Paris Peace talks to arrange the release of all American prisoners captured in Laos.[52] The fiction of North Vietnamese non-involvement in Laos, however, was maintained for the public—Pathet Lao officials were called to Hanoi in March 1973 and stood by when the North Vietnamese released nine Americans captured in Laos.

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[50] Much of this information dealing with death reports has yet to be acted upon because of a court-imposed injunction in 1973–74 and the DOD moratorium in 1975–76 on unsolicited case reviews.

[51] Material provided by JCRC, November 29, 1975, now in select committee files. See Chapter VII for data on identification efforts.

At the same time that the State Department was negotiating with the North Vietnamese for a prisoner exchange, it initiated direct contacts with the Pathet Lao through the embassy in Vientiane.[53] During the war, Pathet Lao officials boasted that they held large numbers of American prisoners. American officials pressed representatives of the Lao Patriotic Front for additional information on these Americans and particularly on the five Americans known to have been captured and believed at that time to be alive in Pathet Lao hands. Not a single piece of information was provided by Pathet Lao spokesmen, who stated that information on missing Americans would have to await the war's end.[54]

On February 21, 1973, Royal Lao and Pathet Lao forces agreed to a cease-fire. Article 5 of the Agreement on the Restoration of Peace and Reconciliation in Laos concerned POW's:

> Both Lao sides will return to each other all persons, regardless of nationality, that were captured, and those imprisoned for cooperating with the other side, during the war. Their return will be carried out according to the procedures set up by the two sides, and, at the latest, must be completed within 60 days following the establishment of the Provisional Governments of National Union and the Joint National Political Council.

The establishment of that government and council were repeatedly delayed. In the meantime, Department of State officials told the Pathet Lao of American concern with the small number of prisoners released from Laos. The Communists responded that all American prisoners had been returned. They accepted a list of names that included American MIA's and American dead whose bodies had not been recovered,[55] but stated that any further accounting must await the formation of the coalition government specified in the cease-fire agreement. Efforts to persuade the Pathet Lao to proceed immediately with the accounting fell on deaf ears.

Congressman Clement J. Zablocki (D-Wisc.), voicing congressional concern over the number of Americans missing in Laos and the failure to obtain any information on them, commented at a hearing:

> There are many people who are asking whether we are putting our desire for a political settlement in that area [Laos] ahead of a desire to get an accounting of our missing in action. I hope this is not the case.

Mr. Frank Sieverts of the State Department responded:

> Mr. Chairman, the answer to your question is, no, we are not. We are dealing with this subject in direct negotiation and

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[52] See p. 121.

[53] For a chronology of the Department of State efforts to gain an accounting in Laos, see "A Partial Record of Diplomatic Efforts to Gain an Accounting for Americans Missing in Laos," in Select Committee Hearings, part 5. Hereafter this document will be referred to as "Laos chronology".

[54] For an elaboration on the Pathet Lao statements, see chapter 4.

[55] A chronology of dates on which lists of missing Americans were passed to officials in Laos can be found in Select Committee Hearings, part 5.

> contact with officials of the Communist side in Laos, to such an extent that they have responded—perhaps feeling the pressure—that the United States seems only to be interested in the accounting for the missing in action and the dead, and rather than in the overall situation in Laos.[56]

During the period of delay when the provisions for a coalition government and national council were being worked out, the Department of State intensified its activities to gain information on missing Americans. The Ambassador considered an accounting to be a matter of high priority. Again, as in South Vietnam, the Embassy in Vientiane worked closely with personnel from the JCRC. In June 1973 two Army officers were assigned by the JCRC to the embassy. These officers were in frequent contact with Pathet Lao officials regarding American MIA's and POW's. Foreign attachés in Laos were briefed at JCRC headquarters in Samae San, Thailand, in an effort to persuade the Vientiane diplomatic community of American interest and to emphasize the need for skilled personnel in recovery operations.[57]

As Department spokesman Frank Sieverts described the extensive diplomatic efforts in December 1973, they constituted a frustrating record of rejected proposals.

> Although U.S. officials in Laos have pressed the Communist side to allow search teams from our joint casualty resolution center to visit crash and grave sites in Laos, no provision to this effect was contained in the Laos agreement or protocol.
>
> We have explained the peaceful, open, and humanitarian mission of the JCRC [Joint Casualty Resolution Center] in the hope that the Communist authorities would permit our search teams to visit at least selected crash and grave sites, so far to no avail.
>
> Our representatives have also provided the Communist side with a detailed listing of our POW/MIA's in Laos, including those listed as dead whose bodies were not recovered, with the request for information on these men.
>
> We have called particular attention to the cases of men who were previously acknowledged as captured in Laos, or for whom there are indications that they survived shootdowns.
>
> Two of the most obvious cases are Air Force Lt. Col. David Hrdlicka, whose capture May 18, 1965, was openly confirmed by the Pathet Lao, and the American civilian, Eugene Debruin, of Air America, also confirmed as a prisoner following his capture September 5, 1963, who was known to survive as recently as 1966.
>
> We continue to hope that the lists and information we have provided will help convince the LPF [Lao Patriotic Front] to provide additional information on our missing men.
>
> As is clear from the foregoing, our representatives in Vien-

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[56] Zablocki Hearings, 93d Cong., 1st Sess., December 5, 1973, p. 84.

[57] Material provided by JCRC, November 29, 1975, now in select committee files.

JCRC developed other programs for the pursuit of information in Laos. One plan called for an extensive publicity campaign using pamphlets and the radio. Another called for training personnel from the Lao Patriotic Front in casualty resolution matters. Circumstances in Laos prevented the implementation of both plans.

> tiane have maintained continuing pressure on the Communist side on this subject.
>
> For example, when it became clear that the Communist side was ignoring the 30-day period specified in the protocol for provision of numbers of prisoners and names of those who died in captivity, our Embassy called a Pathet Lao representative to make clear the importance we attached to prompt and full compliance with this provision.
>
> We noted that the Government side was compiling data on prisoners it held and on those who died in captivity and urged the Pathet Lao to do likewise, pointing out that the protocol gave first priority to this subject and did not link it to the formation of the coalition government.
>
> The Pathet Lao representative, however, rejected this approach and said no information would be forthcoming until the JCCIA [Joint Central Commission to Implement the Agreement] was constituted and the coalition government was formed.
>
> On the question of JCRC access to Laos, the Pathet Lao representative flatly stated that no outside element could concern itself with POW/MIA's in what he described as the "liberated zone."
>
> He also rejected our suggestion of a possible role for the ICC [International Control Commission] or the ICRC [International Committee of the Red Cross] in crash and grave site inspections.
>
> The vast majority of crash and potential grave sites in Laos are located in areas that are under control of North Vietnamese forces. Thus, North Vietnam effectively controls the basic information on this subject.
>
> We have attempted to raise it with them in the Four Party Joint Military Team in Saigon, but they have insisted that POW/MIA's in Laos must be discussed with the LPF.
>
> It goes without saying that we are seriously dissatisfied with the Communist side's performance on this subject thus far.[58]

Officials who sought information were told repeatedly, both publicly and privately, that the nine POW's returned in 1973 comprised the total number held in Laos; no additional Americans were held prisoner there.

THE PROTOCOL

When the Pathet Lao and the Royal Lao signed a Protocol to the Agreement on Restoration of Peace on September 14, 1973, the Protocol included strong, specific provisions for the release of prisoners and information on the missing. Article 18 detailed the procedures. These included:

> The return of all persons, regardless of nationality, that were captured and imprisoned for cooperating with the other side during the war, will be accomplished in three stages and completed at the same time as the withdrawal of foreign troops and military personnel.

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[58] *Ibid.*, pp. 11–12.

> The return of prisoners at each stage from each side will be reported by number of persons (to be returned), by grouping location and time to the Joint Commission to Implement the Agreement 48 hours in advance.
>
> Within 15 to 30 days from the date of signing of the protocol, each side will report the number of those captured and imprisoned to the Joint Commission to Implement the Agreement, indicating nationality and whether military or civilian, together with a list of names of those who died in captivity.
>
> After the return of the prisoners is completed, each side must report as quickly as possible to the Joint Commission to Implement the Agreement information it is able to obtain about persons missing during the war regardless of nationality.
>
> The return of those captured and imprisoned during the war and the gathering of information that each side will submit about the persons missing during the war is the responsibility of the Joint Commission to Implement the Agreement. When both sides in the Joint Commission to Implement the Agreement believe it necessary, they may request assistance from the International Control Commission.

Two months later, on November 23, 1973, the Joint Central Commission to Implement the Agreement (JCCIA), composed of representatives from both sides, held its first formal meeting.

The Commission was sluggish about the MIA problem. It was a full eight months before a subcommittee of the JCCIA addressed the POW/MIA issue in July 1974 and several more months before the JCCIA issued yet more detailed regulations on the release of prisoners and accounting for the missing. Even as they agreed to these new regulations, the Pathet Lao indicated there might be further delays before the JCCIA took up the problem of accounting for the MIA's.

Throughout the period 1973–75, the Department of State exerted considerable effort through formal, diplomatic channels to obtain information on Americans missing in Laos.[59] For example, in the two-month period of April–June, 1974 Embassy officials in Vientiane raised the POW/MIA issue on more than a dozen occasions with officials from both Lao parties. These officials included Prime Minister Souvanna Phouma (twice), the Deputy Prime Minister and Foreign Minister Phoumi Vongvichit (twice), the Secretary of State for Foreign Affairs, the Minister of the Interior, the Minister of Cults, the Minister of Information, the Minister of Justice and Deputy Chairman of the Joint Committee, and the Minister of Economy.

Some discussions were concerned primarily with the release of the captured American pilot Emmet Kay; others concerned the broader issue of American MIA's and, in particular, Americans known to have been alive and in Pathet Lao hands.

During the same period, the MIA/POW matter was also brought to the attention of the Soviet Ambassador to Laos, the general delegate of the International Committee of the Red Cross, and the Australian military attaché.

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[59] For a detailed chronology of the State Department's efforts to gain an accounting in Laos, see "A Partial Record of Diplomatic Efforts to Gain an Accounting for Americans Missing in Laos", Select Committee Hearings, part 5.

On numerous other occasions Embassy officials carried American concern for the missing to Lao officials. In the course of these exchanges, lists of Americans missing in Laos and Americans whose bodies had not been recovered were passed to Royal Lao officials, to Pathet Lao representatives, and to representatives of the International Committee of the Red Cross and the United Nations High Commission for Refugees.

Emmet Kay was eventually released in September 1974, but no further information on other missing Americans developed as a result of these diplomatic efforts.[60]

In addition to these formal initiatives, U.S. representatives informally pursued the subject of missing Americans with the Red Cross delegate, with military delegates to the International Control Commission, with representatives of the diplomatic community, with journalists. For example, when Thai and Royal Lao prisoners were released in September 1974, they were questioned for any information they might have on missing Americans.[61]

On the international level, the Secretary of State raised the MIA issue with the Lao Foreign Minister at the United Nations General Assembly in September 1974. Again, no information was forthcoming, and none was promised.

THE DEAN-SHARMAN CASE

Similar concerted diplomatic initiatives were taken on behalf of American Charles Dean and Australian Neal Sharman, two journalists who left Vientiane, Laos, by boat in early September 1974 and were captured by the Pathet Lao at a check point farther down the Mekong River. In the following months, American intelligence agents obtained reliable sighting reports of the two civilians.[62]

Using these reports, the American Embassy in Vientiane made an all out effort to gain the release of Dean and Sharman. Between September 1974 and April 1975, Ambassador Whitehouse and other Embassy officials repeatedly approached top-level Royal Lao and Pathet Lao officials personally and by diplomatic notes. In Washington, Assistant Secretary of State Philip Habib called in the Lao Ambassador to the United States, reviewed the case, and emphasized its importance for Lao-American relations. Secretary of State Henry Kissinger sent messages to the Lao Prime and Foreign Ministers calling for the immediate release of Dean and Sharman. The Soviet Ambassador in Vientiane was asked to intervene; the North Vietnamese Embassy in Vientiane was contacted. The American Embassy in India requested the Indian Government to take the case up informally with the Pathet Lao.[63]

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[60] A brief account of Emmet Kay's incarceration can be found in Select Committee Hearings, part 5.

[61] Laos Chronology, *loc cit.*

[62] For a detailed account of the Dean-Sharman case and pertinent intelligence reports, see the analysis by the Defense Intelligence Agency in Select Committee Hearings, part 3, pp. 283–286.

[63] For a chronology of State's efforts on the Dean-Sharman case, see Laos Chronology, *loc cit.*

In addition, the United States helped deliver an agent into the area of last known location in early 1975, with instructions to ascertain whether the two missing men were there. The agent was to report back within 30 days. The agent never returned to friendly control. Material provided by the Defense Intelligence Agency, April 14, 1976, now in select committee files.

Despite this continuing diplomatic pressure and the provision to the Lao of the most up-to-date intelligence information in American possession on the location of these two men, the Pathet Lao steadfastly denied any knowledge of the incident.[64]

Formal and informal efforts to gain an accounting were continued until May 1975, when the Lao coalition government disintegrated and the Pathet Lao took over the administration. None of these efforts, however, resulted in any information on Americans missing in Laos.

GAINING AN ACCOUNTING: CAMBODIA

The pursuit of information on missing Americans was as complicated in Cambodia as it was in Laos.

As was the case in Laos, the American government considered North Vietnam primarily responsible for Americans missing in Cambodia, and at the Paris talks negotiated the release of all Americans captured and held by North Vietnamese and Viet Cong forces in Cambodia. As a result, 47 POW's captured or detained in Cambodia were among those returned in "Operation Homecoming".[65]

At the same time, the State Department attempted to negotiate with any indigenous Cambodian forces that might have information on missing Americans. The Government of the Khmer Republic, established in March 1970 after the overthrow of the Royal Khmer government, cooperated with the United States in pursuit of information until Phnom Penh fell to the Khmer Rouge in April 1975. With American assistance, the Khmer Republic developed an intelligence collection program that included a debriefing and interrogation center, and at the request of the American Embassy in Phnom Penh, questions about missing Americans were included in interrogations of thousands of persons returning from Communist held areas.

In January 1971, at the request of the American Embassy, the Cambodian government offered to exchange North Vietnamese POW's for missing journalists and any other prisoners held by Communist forces in Cambodia. The offer was refused.

Further efforts to pursue information in Cambodia were frustrated by the chaos of the civil war being waged there. Prince Sihanouk was considered a man of little influence and power, and it was difficult to contact authoritative spokesmen of the Communist guerrillas.

In testimony before a Senate Committee in January 1974, reporting on the efforts of the Department of State to gain information on missing Americans, Department spokesman Frank Sieverts was notably brief.[66] Questioned about Cambodia, he could only reply:

> There is no agreement specifically covering the question of those missing or captured in that country. We have held North Vietnam responsible for all Americans missing in action in Indochina, but there has been no specific provision or accounting for men missing in Cambodia. That includes the journalists who form probably the single largest group of

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[64] On June 12, 1976, the Vientiane Embassy's Special Assistant for MIA Matters again took up the Dean-Sharman case with the Pathet Lao delegates to the Joint Central Committee for the Implementation of the Agreement (JCCIA). The delegate agreed to forward the request to the Pathet Lao Central Committee.

[65] This figure includes 28 released in South Vietnam and 19 released in North Vietnam.

[66] Frank Sieverts, "U.S. POW's and MIA's in Southeast Asia", Hearing before the Committee on Foreign Relations, U.S. Senate 93d Cong., 2d Sess., January 28, 1974, p. 35.

> people missing in Cambodia. Some of them have only been missing for a number of months and only a minority I should say are American. A majority come from a wide variety of other countries, which have been just as unsuccessful as we have been in obtaining more information about their nationals.[67]

That certain efforts to obtain an accounting for Americans lost in Cambodia were also made through other nations is clear from testimony presented by Walter Cronkite before the House Select Committee. Mr. Cronkite was testifying in his capacity as Chairman of the American Branch of the International Committee to Free Journalists Held in Southeast Asia. He reported that his committee had approached Secretary of State Henry Kissinger about journalists missing in Cambodia, and, at the request of that committee, Dr. Kissinger had communicated with Chou En Lai in China and Le Duc Tho, the Vietnamese representative in Paris. Both made inquiries and replied that they had no knowledge of Americans being held.

Later, a copy of Dr. Kissinger's letter to Le Duc Tho was forwarded to Mr. Cronkite. That letter stated:

> A group of American journalists representing many members of their profession from all political persuasions have come to me to inquire if anything further could be done to determine the fate of some of their colleagues who have been missing in Cambodia. Investigations and searches that they have conducted independently have led them to believe that their colleagues might be alive.
>
> They asked me whether the DRV [that is the Democratic Republic of Vietnam] was in a position to assist in this matter. I told them that we had no basis for believing that these American journalists were alive or that the DRV was in a position to assist. Nevertheless, I told them I would make one further inquiry. I do this, as I say, in a wholly unofficial capacity. These missing journalists are civilians and private citizens, not employees of the United States Government. The U.S. Government will make no public representation on the matter and will not treat this matter in propagandistic fashion.
>
> I recall that we received the DRV's assurance a year ago that you had been informed by your ally in Cambodia that there were no American captives held in Cambodia. Should we learn that these American journalists are indeed alive, we would treat this as welcome news and as a sign of good-will on the part of your ally. We receive this news in that same spirit. Any information from the DRV or any wise advice from the special advisor [Le Duc Tho] about this part of Indochina with which he has a long familiarity, would be deeply appreciated by the American people.

Mr. Cronkite expressed to the select committee his reservations about the tenor of Secretary Kissinger's letter.[68]

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[67] *Ibid.*, pp. 56–57.
[68] Select Committee Hearings, part 3, pp. 944–45.

The State Department was unable to gain any accounting for Americans missing in Cambodia.

ADDITIONAL INITIATIVES

Government-to-government negotiations did not exhaust the Department of State's efforts to gain information on missing Americans. Activities in the international arena similar to those conducted during the war, such as cooperation with international humanitarian organizations, were continued.

The United Nations High Commission for Refugees, though limited to refugee problems, provided its good offices to help resolve this humanitarian issue. The International Committee of the Red Cross and the American Red Cross continued to be of great assistance to the State Department in its pursuit of an accounting, just as they had proven immensely helpful during the war.[69] For example, the American Red Cross and the U.S. Government delegations to the International Red Cross meeting in Tehran, Iran in November 1973, took the lead in winning support for a resolution reaffirming international concern about the accounting for missing and dead in armed conflict. The resolution was adopted. The United States then sponsored a similar resolution at the United Nations, where it was adopted by the General Assembly on November 6, 1974.[70]

The Department of State also cooperated with both Houses of Congress to keep them apprised of their efforts. In December 1973, the Department spokesman on POW/MIA affairs, Mr. Frank Sieverts, appeared again before the Subcommittee on National Security Policy and Scientific Developments, which was considering a sweeping resolution prohibiting trade, aid, and diplomatic recognition of the North Vietnamese until an accounting was given.

Mr. Sieverts was opposed to this resolution, and his thought echoed the thoughts and sentiments expressed by Dr. Henry Kissinger when he was questioned about similar matters during the confirmation hearings preliminary to his appointment as Secretary of State.[71] Mr. Sieverts expressed opposition to this resolution not because of the high priority it gave an accounting—in this respect, the resolution reflected State's policy—but because it limited the negotiating flexibility of the State Department. The State Department, he emphasized, had already made it clear to the Vietnamese that normalization of relations could not be discussed seriously until an accounting had been made.[72]

While the State Department was pursuing an accounting through formal and informal methods, a special assistant to the Deputy Secretary of State was also working full time on POW/MIA problems as liaison officer to keep the families of missing men informed of any developments. Between 1969 and 1976, that officer was Mr. Frank

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[69] See the remarks by State Department spokesman Frank Sieverts on the contributions of the Red Cross as included in the Congressional Record, June 21, 1973, pp. E4285–7.

On February 17, 1975, on a trip to the Mid-east and Geneva, Secretary of State Henry Kissinger again brought up the importance of information on missing Americans with the President of the ICRC.

[70] A copy of this resolution can be found in Select Committee Hearings, part 5.

[71] For a transcript of Dr. Kissinger's remarks at the confirmation hearings, see Select Committee Hearings, part 5.

[72] Hearings before the Committee on Foreign Relations, U.S. Senate, 93d Cong., 2d Sess., January 28, 1974, pp. 15–16.

Sieverts. Mr. Sieverts was involved in every phase of the POW/MIA problem, preparing negotiating papers for the peace talks in Paris, writing newsletters and information material, briefing members of Congress, making countless talks and meeting MIA families and interest groups throughout the country. Among the benefits gained from retaining the same qualified person in that office throughout the period were a high degree of competence and a thorough familiarity with every aspect of the POW/MIA issue.

EVALUATION

Why did the American people not receive an accounting for the missing in Indochina? The question must be answered, of course, country by country, and the previous brief review of the State Department's efforts suggests some answers. However, in general, it can be said—not because the State Department was negligent in pursuit of an accounting.

That the Department of State took seriously its responsibilities to protect the rights of missing American citizens, military and civilian, and pursued its responsibilities seriously is evident in the record of its efforts. During the war, the Department devoted immense time, energy, and intelligence to gain humane treatment for American POW's and to negotiate their early release. Short of ending the war immediately, every means at its disposal was used.

After the war, when the provisions for gaining an accounting failed to be followed, the State Department tried other means to achieve that end. It tried government-to-government appeals, demands, and protests. It enlisted the assistance of international humanitarian organizations, sought the aid and support of third-party nations and the pressure of world opinion.

That the results proved less effective than hoped for and desired cannot be attributed to lack of effort. Critical factors were beyond American control, including the enemy's general perception of humanitarian obligations and specific application of humanitarian principles.

Short of recommencing the war, there were few remaining alternatives on the diplomatic level. North Vietnam was already under a total embargo, and when South Vietnam, Laos, and Cambodia fell to Communist forces in 1975, South Vietnam and Cambodia were soon included in the embargo. Other restrictions were imposed on Laos.

Suggestions were made that pressures greater than diplomatic requests be applied to third-party nations, allies of North Vietnam, in the hope of pressuring the Vietnamese to give an accounting. This suggestion had the advantage of making an accounting a number one priority, and the disadvantage of jeopardizing other national interests with no assurance of an accounting. Perhaps an accounting could have been gained by granting Vietnam reconstruction aid, but there is no assurance of that, nor was Congress sympathetic to such a proposal.

If the Department of State record of efforts through formal and informal diplomatic channels is considerable, its record of efforts to maintain American public awareness is remarkably brief. True, the MIA issue was mentioned in an occasional address by the Secretary of State, and now and then a particular day was declared MIA Awareness Day. But these efforts were wholly inadequate to keep the importance of an accounting before the American public.

Further, the State Department's policy of silence on recent and ongoing negotiations, however justifiable and necessary from a diplomatic perspective, had deleterious consequences. First, it created suspicions in some quarters that the State Department was doing little or cared little about gaining an accounting. This suspicion was all the more credible because many had understood the President and the National Security Advisor to say that an accounting would be obtained within 60 days after the Paris Peace Agreement was signed.

A second deleterious consequence of State's silence policy left members of the select committee visiting Hanoi in extremely awkward position of learning from a foreign power important information its own government had previously withheld.

Despite these shortcomings, the record of efforts by the Department of State is, as the previous brief review demonstrates, impressive. In a more amicable, cooperative atmosphere, those efforts would probably have proven effective and successful.

Any evaluation of the State Department's efforts to gain an accounting must include the context in which an accounting was to be gained. That context was one of continuing hostility. The overwhelming fact of post-Paris conditions in Vietnam was the continuation of the hostilities bred by the stated determination of North Vietnam to annex the South. In this context, giving and gaining an accounting did not have the highest priority for any of the parties. In this context, too, the MIA matter, of marginal concern to the Indochinese nations, took on a political value because of its importance to the United States, an importance that became increasingly evident precisely because the Department of State pursued an accounting so vigorously. Thus, for the Vietnamese an accounting became a political pawn and a bargaining chip, as the POW's had been previously.

The charge is frequently heard that gaining an accounting was low on the State Department's list of priorities following the signing of the Accords, and this is why the United States never received an accounting. This is a vague and elusive charge, made so by the failure to compare the supposedly "low" MIA issue to something "high" on the list of priorities, and by the failure to provide any substantiating evidence. The accusation draws its credibility from the widespread distrust of government officials generated by the war itself and by the Watergate affair.

As elusive and vague as the charge may be, its implications are clear: State could have gained an accounting if the MIA issue had been higher on its list of priorities, and State failed to take significant actions that promised success.

To examine the charge a little more closely—if an accounting was "low" on State's list, it was "low" compared to what? Compared to gaining the speedy release of American POW's? Perhaps. Compared to maintaining the truce in Vietnam? Perhaps. Compared to the values involved in granting $3.25 billion in reconstruction aid? Perhaps.

Certainly gaining an accounting did not have the highest priority for the State Department. Secretary of State Kissinger, for example, did not try to publicize the matter at every press conference. The State

Department's record of efforts, however, establishes the fact that gaining an accounting was among its top priorities in dealing with the Indochinese governments. So high was it, in fact, that the Indochinese governments protested that the United States seemed concerned only about gaining an accounting and not about other outstanding problems.

Plausible at first glance the charge of State Department disinterest appears far less credible after closer examination. In fact, rather than a valid charge that provides insight into the failure to gain an accounting, it appears as a symptom of the deep dissatisfaction and frustration at the failure to gain an accounting, a frustration vented on the State Department because it is State's responsibility to gain that accounting.[73]

It is doubtful that State could have gained an accounting by being more insistent. The main problem is not that gaining an accounting was low on the State Department's list of priorities. The primary reason the American people have not gained an accounting lies elsewhere.

That searching for information on missing Americans would not have top priority for the Vietnamese is understandable; they were rebuilding their country after a war and laying plans for the reunification of Vietnam. But that they would deliberately withhold, and to this day continue deliberately to withhold, information on such a humanitarian matter demonstrates how politicized the MIA matter became in a context of continuing hostilities.

If the overwhelming fact of post-Paris conditions in Vietnam was continuing hostilities, the chief reason the Department of State was unable to gain an accounting was the recalcitrance and intransigence of the Indochinese Communist leaders. They publicly based their refusal to account for missing Americans on a variety of reasons at first, and now have settled on the American refusal to aid in post-war reconstruction.

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[73] Under Secretary of State for Political Affairs Philip Habib again assured the Select Committee that gaining an accounting now has top priority for the State Department. See Select Committee Hearings, part 5.

CHAPTER VII.—THE MILITARY EFFORT

THE ROLE OF THE DEPARTMENT OF DEFENSE

The Department of Defense (DOD) held a key role in POW/MIA matters throughout the conflict in Indochina. The vast majority of casualties were servicemen and efforts on their behalf were necessarily the responsibility of the Department of Defense.

To understand the role of the Department of Defense and the military services in discharging this responsibility, it was necessary for the select committee to examine the military command, intelligence, operational, and personnel functions as they apply to the problems of Americans missing in Southeast Asia. The committee examination was facilitated by complete access to relevant DOD records, including classified and unclassified files on each missing serviceman, debriefs of returned POW's, and information held by the Defense Intelligence Agency.

EARLY EFFORTS

It was readily apparent that during the inital stages of American involvement in Vietnam there was no substantial POW/MIA problem. Our military presence was limited to a handful of advisers, and they were regular soldiers. The few that were captured by the Viet Cong caused no ripples of public sentiment at home. Their capture and treatment were not public knowledge. The small numbers of records were routinely maintained by the U.S. Military Assistance Command, Vietnam (USMACV) and by the man's parent service. When a rare escapee returned, such as Sergeant Isaac Camacho in 1965, the records of his debriefing were circulated to appropriate commands under the protection of security classification. Access to the classified data was restricted to those with a need to know.[1] When the Viet Cong released captives such as Sergeant George Smith and Specialist Claude McClure, similar precautions were taken with their debriefings. Smith and McClure had been held with Camacho; they were released by the Viet Cong in 1965. Historical investigation shows clearly that standard intelligence interest was maintained and all possible and reasonable efforts were made to locate missing Americans; however, no extraordinary system was created at that time to address the limited problem of POW's and MIA's. Headquarters echelons showed the usual interest that could be expected of any military organization. American military services exchanged information in-country, at the Unified Command level, and in Washington at the service headquarters level. While those early efforts call for no particular praise, neither do they deserve any particular condemnation when viewed in the context of U.S. military involvement at that place and time.

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[1] Staff Director J. Angus MacDonald reviewed the Camacho debrief at the Pentagon in 1965 in connection with Marine Corps interest in the personnel Camacho had seen while in captivity.

In 1964 American aircraft began to provide support in South Vietnam for the Republic of Vietnam and in August began ranging over North Vietnam in retaliation for their PT boat attacks on U.S. destroyers. Losses began to climb and Hanoi had its first POW's. The war itself, however, remained undeclared and, until 1965, did not involve American ground force units. Even the term "prisoner of war" went largely unused until 1966. At this time, the U.S. Government believed that to publicize any details about the missing or the treatment they received would jeopardize those still held by the enemy, both in the jungles of the South and in the prisons of the North. Occasional public releases of POW/MIA information in 1965 merely identified the numbers involved. The brutal treatment of known prisoners was rarely presented by Department spokesmen for public information. DOD had not yet created a special office to oversee policy for all POW's; each Service continued to minister to its own. The Joint Chiefs of Staff were preoccupied with fighting the war; other problems of Vietnam overrode the POW issue.

A notable exception to American quiescence on the prisoner of war issue occurred in mid-1966, when American POW's were cruelly paraded through the streets of Hanoi. In obvious disregard for the Geneva Convention to which it was a signatory, North Vietnamese leaders directed this mental and physical abuse of the prisoners for propaganda purposes.

The demonstration took place July 6, accompanied by official DRV statements that Americans were not POW's, but air pirates and would soon be tried for war crimes.[2] There followed an immediate, emotional, and widespread expression of public concern in the United States, accompanied by extensive international protests. These protests soon reached such a crescendo that on July 23 Ho Chi Minh renounced plans to try the American POW's as war criminals.[3]

It was not until 1967, however, that a Department of Defense POW/MIA Policy Committee was finally established. Under the chairmanship of the Assistant Secretary of Defense for International Security Affairs, the members of this committee were the Secretaries of the three military departments, the Chairman of the Joint Chiefs of Staff, and the Director of the Defense Intelligence Agency. A primary task of the policy committee was to ensure adequacy of repatriation planning. In addition, it analyzed POW/MIA classification standards and coordinated POW/MIA information flow within DOD. The efforts of the policy committee, however, were seriously circumscribed by the Department of State's policy of "quiet diplomacy" being carried out by Averell Harriman.[4] The POW's were now recognized as a political issue, sure to be pivotal in cease fire negotiations as they had been during the Korean war.

In 1969 a concerted effort finally began to bring public and international pressure on the Indochinese Communist authorities.

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[2] John C. Hubbell, *P.O.W.*, (The Readers Digest Press: New York, 1976), pp. 183–99.

[3] Chester Cooper, *The Lost Crusade* (Dodd, Mead, and Co., New York: 1970), pp. 309–10.

[4] Harriman had been appointed by President Johnson in 1966 as his chief negotiator and representative in POW/MIA matters. Although excluded from the Tuesday lunches in which Vietnam policy was made, Harriman's view that "quiet diplomacy" could succeed persisted.

As seen in Table 1, the number of American servicemen listed as POW/MIA by that time exceeded 1,600:

TABLE 1[1]

U.S. SERVICEMEN LISTED AS MISSING IN ACTION OR PRISONER OF WAR IN SOUTHEAST ASIA 1961–1971

Year	MIA	POW
1961		
1962		
1963		
1964	4	3
1965	54	74
1966	204	97
1967	226	179
1968	294	95
1969	176	13
1970	85	12
1971	79	11

[1] Testimony of G. Warren Nutter, Assistant Secretary of Defense for International Security Policy and Scientific Development, March 16,1972, in "Amercan Prisoners of War in Southeast Asia", Select Committee Hearings, part 3, p. 29.

Launched at the direction of the new Secretary of Defense, Melvin R. Laird, the DOD effort involved public statements by Government officials, press conferences, speaking engagements, enlisting the assistance of the news media, and encouraging private organizations, individuals, and family members to participate in publicity-generating activities.[5] On March 1, 1969, Secretary Laird initiated an inquiry to ensure that all possible help be given the POW/MIA's and their families, and launched a campaign to focus more public attention on the problem of American POW's. In May 1969, the Secretary publicly condemned North Vietnamese mistreatment of prisoners and called for Vietnamese adherence to the Geneva Convention by releasing the names of prisoners held, releasing the sick and wounded, allowing impartial inspection of POW facilities, properly treating prisoners, and allowing a regular flow of mail. "Most importantly", he concluded, "we seek the prompt release of all American prisoners."[6]

In a memorandum for correspondents issued 2 days later, Mr. Laird made the following statement, typical of hundreds made throughout his tenure as Secretary of Defense.

> Xuan Thuy, chief of the North Vietnamese delegation to the Paris Peace Talks, has declared that Hanoi would not promptly release a list of U.S. prisoners of war held in North Vietnam.
>
> I am deeply shocked and disappointed by this cruel response of Hanoi's representative to such a basic request for humanitarian action.
>
> Hundreds of American wives, children, and parents continue to live in a tragic state of uncertainty caused by the lack of information concerning the fate of their loved ones. This needless anxiety is caused by the persistent refusal by North Vietnam to release the names of U.S. prisoners of war.
>
> I want to reaffirm the continuing hope that Hanoi will provide a list of American prisoners and permit a free flow of mail between U.S. prisoners of war and their families.
>
> We continue to urge the immediate release of sick and

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[5] For a description of typical DOD activities in this regard, see the Zablocki hearings, 92d Cong., 2d sess., March 16, 1972.

[6] *Ibid.*, May 19, 1969.

> wounded prisoners, the neutral inspection of prisoner of war facilities and the prompt release of all American prisoners.[7]

The Secretary not only made repeated and frequent statements of this nature, but directed responsible Department of Defense officials to pursue public efforts on behalf of the POW/MIA's and their families at every opportunity. These officials subsequently appeared before the Congress, television and radio audiences, veterans groups, at sports events, before church groups, business and professional associations, press groups, associations of the services, and civic clubs throughout the nation. They also appeared on foreign broadcasts and participated in international conferences on humanitarian law. Early prisoner of war returnees held speaking engagements across the country. Efforts were made to support letter writing campaigns, as well as the work of private organizations, including the National League of Families.[8]

In May 1971, for example, DOD organized a trip by a large group of family members to Geneva during a conference of the International Committee of the Red Cross on humanitarian international law, particularly as applied to prisoners of war. DOD also supported transportation and arrangements for meetings of the National League of Families. In November, a Departmental representative presented a petition on behalf of all POW/MIA families to the Secretary General of the United Nations. The Department also publicized widely the individual cases of 14 airmen for whom North Vietnam could clearly account but had refused to.[9]

The Department also received a great deal of support from the families and friends of missing servicemen, who also deserve a great deal of credit for the "go public" campaign. An effort to organize the families, begun in the late 1960's, bore fruit in June 1970 when the National League of Families of American Prisoners and Missing in Southeast Asia was formed. The National League proved to be both an effective lobby and a conduit of information for public and governmental understanding. The POW/MIA issue was further highlighted by the POW bracelet campaign sponsored by Voices in Vital America (VIVA), and by the bumper sticker campaign which both VIVA and the National League of Families supported.[10] Through these efforts and those of other individual citizens and groups, a national and internatonal consciousness of the POW/MIA problem grew to major proportions. Although the effort did not succeed in liberating large numbers of POW's, it did help produce other significant results.

The treatment of prisoners in Hanoi improved in 1969. Additional blankets were issued, solitary confinement and brutality were reduced, the food improved slightly, and a few more cigarettes were issued.[11] In

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[7] *Ibid.*, May 21, 1969. The Secretary expressed similar sentiments before the U.S. House of Representatives on September 17, 1969.

[8] For a chronology of the highlights of this activity, see Zablocki Hearings, *op cit.*, pp. 52–4.

[9] Select Committee Hearings, part 3, pp. 244–68.

It is significant to note that even now, 5 years later, the Vietnamese have failed to provide the remains or any information on 12 of these men.

[10] It has been conservatively estimated that over 50 million bumper stickers and 5 million bracelets were distributed. In 1972 VIVA was receiving some 36,000 letters per day.

[11] Select committee interviews with returned POW's. Three American prisoners each were released in April 1968, February 1969, August 1969, and August 1972. While they may have been designed to defuse world pressure, the negative impact of the returnees' description of their harsh prison life probably discouraged such further token releases.

TABLE 2[1]

POW/MIA MAIL DATA[2]

	January 1969	January 1972
Total letters received	623	[3] 5,711
Total number of writers	103	354

[1] The number of listed POW's increased from 326 to 476 during this period, and the proportion of letter writers increased from nearly one-third to nearly three-fourths of listed POW's.

[2] Zablocki Hearings, op cit., p. 30.

[3] Includes 18 letter writers from South Vietnam. Prior to December 1971, only one letter had been received from U.S. servicemen in South Vietnam, and none had been received from Laos or Cambodia.

addition, the number of letters permitted to be received from North Vietnam increased substantially. The letters confirmed 335 Americans held as prisoners in North Vietnam who had been named on a list released to members of the anti-war movement on April 30, 1970.

The "go public" campaign continued through the prisoner releases in 1973. During this time prisoner treatment continued to improve in the North, and the families of many more prisoners finally received word that their serviceman was alive. A substantial number of POW's in Viet Cong hands were taken to Hanoi in 1970–71 for release later. This movement, and the very survival of these POW's, can be attributed partly to the "go public" program. The post-1969 improvement in POW treatment has also been attributed in the death of Ho Chi Minh in 1969 and the activities of U.S. anti-war groups, such as that which received the list of American prisoners. The former may be doubtful in view of subsequent efforts to carry on the policies of Ho, while the latter begs the question of why North Vietnam did not choose to alter POW policy prior to late 1969. Other elements in the issue include the pressures upon North Vietnam to counterbalance the influences of Russia and China in its own affairs, and the shifting strategic pressures involving the United States, Russia, and China, the unexpectedly stiff resistance of U.S. POW's to North Vietnamese torture, the failure of the North Vietnamese propaganda exploitation program to produce large numbers of tractable, converted, penitent POW's for early release, and the growing strength of the South Vietnamese government and armed services.[12] In any event, the Department's effort in the "go public" campaign contributed to national awareness of the problem, governmental efforts to attack the problem, and international pressure to solve the problem.

Other initiatives undertaken by the Department of Defense prior to the prisoner releases included reorganization of Departmental resources to support release of the American prisoners, the release of North Vietnamese and Viet Cong prisoners in the hope of a reciprocal gesture, and preparation for "Operation Homecoming". The Department also recommended approval for the Son Tay raid, which is discussed later in this chapter.

On February 13, 1971, Secretary of Defense Melvin R. Laird directed the Assistant Secretary of Defense for International Security Affairs to form a POW/MIA task group and task force. This action was initiated to strengthen the capability of the Department to attain a satisfactory solution to the problem of captured and missing Americans in Vietnam. In that memorandum, Secretary Laird stated:

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[12] Col. Frederick Kiley, *The PW Experience in Southeast Asia* (OSD, Working Draft, 1976).

> I continue to attach the highest resolve to a satisfactory and an early solution to the problem of our missing and our captured men. Our goal remains the release of all prisoners of war in Southeast Asia and the complete and official accounting for all those missing in action, or who have died in captivity.[13]

While the DOD/POW policy committee continued its function of assisting the Secretary in providing direction and broad policy recommendations on POW matters, the task group, under the chairmanship of Dr. Roger E. Shields, assumed the function of coordinating the activities of the Department and the services in planning, programming, assessing, and carrying out all required actions. The POW/MIA task force served as a staff to the task group.[14]

One of the principal activities of the task group was to establish a close working relationship with a newly created intelligence task force. Under the leadership of Rear Admiral Donald Whitmire, the intelligence task force had representation from the national intelligence community, the military services, and the Department of State. The organization provided a central authority for managing all POW/MIA intelligence efforts, and was tasked with developing and promulgating intelligence policy guidelines, coordinating the flow and distribution of intelligence acquisitions, and developing standing operating procedures for the Department of Defense. The intelligence task force provided daily briefings to the POW/MIA task group and responded to the group's requirements.[15]

The DOD POW/MIA task group also provided a focal point for coordination and cooperation with the Department of State, where Frank A. Sieverts served as Special Assistant for Prisoner of War and Missing in Action Matters. The close coordination between the full-time principals, Messrs. Shields and Sieverts, enabled the Departments to plan more effectively for negotiations in Paris, where the Four Party Joint Military Commission was to play an important role.

RETURN OF AMERICAN POW'S

Finally, the DOD POW/MIA task group developed policies on treatment, care, and assistance planned for the returning POW's.[16] The repatriation plan, termed "Egress Recap", and later "Operation Homecoming", was carefully coordinated with the military services to receive the men and give them the best treatment possible, with sensitive, individualized processing and care. A DOD homecoming headquarters was activated in anticipation of the POW releases to coordinate and direct the medical, intelligence, and family assistance aspects of the program.

During February, March, and April of 1973, 594 American military and civilian personnel were returned to American control in "Operation Homecoming".[17] This program included debriefing each returnee for information on over 1,300 Americans still listed as missing in action. The debriefings were not as productive as the Department had hoped. As an information paper published by the Department of Defense stated—

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[13] The Secretary of Defense, "Memorandum on the Establishment of Prisoners of War/Missing in Action Task Group", February 13, 1971, in Select Committee Hearings, part 5.

[14] Laird Memorandum, *op cit.*, and testimony of G. Warren Nutter, May 6, 1970, in Zablocki Hearings, 91st Cong., 2d Sess., p. 86.

[15] The intelligence task force was supported by a POW intelligence working group, an interagency group chaired by DIA and established in 1966.

[16] See "Operation Homecoming—Full Details of POW/MIA Program Outlined", in Select Committee Hearings, part 5.

> We had anticipated that they would be able to provide us with significant information concerning those who did not return. Unfortunately, they could add little to what we already knew. They were able to provide data that was useful in the resolution of fewer than 100 cases. Some of the returnees provided information that confirmed deaths reported by the other side. Others provided what might be considered as negative, although not complete, information. * * * The thrust of much of the information we received from our returnees and an analysis of the circumstances of loss strongly indicate we were, in fact, welcoming home the survivors of catastrophic situations.[18]

The DRV gave little help in reporting the status of MIA's, preferring to hold such information as bait for further U.S. concessions. If information about MIA's was not as full as hoped for, the intelligence agencies had done a very fine job estimating who and how many returnees would be released; there was just one surprise—an Army captain held in complete isolation by the Viet Cong in the Delta of South Vietnam.

POST-WAR EFFORTS

In the Spring of 1973, after the POW repatriations, the functions of the DOD task group and task force were assumed by the DOD Office of POW/MIA Affairs. The Office holds weekly meetings to evaluate the current status of the POW/MIA issue. In addition, the Office continues to be apprised of ongoing efforts in the intelligence field. However, the volume of new intelligence acquisitions declined substantially when American forces were withdrawn from Indochina in 1973, and were further reduced when Communist forces invaded and overthrew the governments in South Vietnam, Laos, and Cambodia in 1975. Attendance at both the general and the intelligence meetings usually includes the Director and staff of the Office of POW/MIA Affairs, casualty assistance officers of the four services, and representatives of the DOD Comptroller, Public Affairs, Legislative Liaison and Freedom of Information Offices, as well as officials of the Defense Intelligence Agency and special review groups, such as the group studying the Code of Conduct.

The POW/MIA Office assures that distribution of intelligence reports is made to all agencies having direct interest in the POW/MIA issue. The Department of Defense has assured the select committee that the capability inherent in the Department's POW/MIA Office will be retained until final resolution of the POW/MIA problem.

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[17] Of this number, 52 servicemen were repatriated whom the military services had previously listed as missing in action. Thirty-six of these fifty-two had been lost in late 1972 and early 1973.

[18] Memorandum for Senators and Members of the House of Representatives, from John M. Maury, Assistant Secretary of Defense for Legislative Affairs, September 10, 1975, pp. 11–12.

Finally, DOD continues to undertake programs to improve the capability of American forces to face the POW/MIA situation in future wars. Of particular significance is the detailed assessment of the Code of Conduct undertaken by the Department of Defense, beginning in May 1976. Former prisoners, educators, and command and staff personnel were called by the Department of Defense study group and interrogated concerning their experiences and their recommendations with respect to the Code of Conduct. The select committee expects that the results of that study will assert considerable influence on future training for evasion, escape, and survival. In addition, the Department of Defense and the individual services have conducted a series of studies and experiments to improve emergency survival equipment and techniques.[19]

There can be no doubt of the importance the American negotiators at the Paris Peace discussions attached to the treaty provisions concerning the return of American prisoners and an accounting. The principles were embodied in articles 8(a) and 8(b) of the Paris Peace Agreement, signed on January 27, 1973, and spelled out in further detail by the "Protocol on Prisoners and Detainees".[20] The articles specified the obligations of all parties; the protocol detailed the mechanisms through which those obligations would be fulfilled. The protocol established the Four Party Joint Military Commission (FPJMC) with a tenure of 60 days, charged with implementing the prisoner exchange and establishing the procedures to be followed in gaining an accounting.

Under the aegis of the FPJMC the prisoner exchange was accomplished in conjunction with Operation Homecoming.

Information on Americans still missing in Vietnam was pursued by the U.S. delegation to the Four Party Joint Military Commission and its successor after 60 days, the Four Party Joint Military Team (FPJMT). Unfortunately, the cooperation necessary to ensure progress was short lived, and the hoped-for information was never provided. Gaining an accounting depended entirely on the observance of the Paris Peace Agreement, and the mechanisms established to gain an accounting proved as fragile as the truce that established them. These mechanisms quickly proved ineffectual, evolved into a contentious reflection of the continuing military hostilities, and eventually ground to a halt.

Composed of delegations from the Democratic Republic of Vietnam (DRV), the Provisional Revolutionary Government (PRG), the Republic of Vietnam (RVN), and the United States, the FPJMC began operations to gain an accounting on February 2, 1973. The Communist delegations to the FPJMC acknowledged their responsibilities to implement article 8(b), but when the FPJMC completed its 60-day tenure specified by the agreement, little substantive progress had been made.

On April 2, 1973, the Four Party Joint Military Team (FPJMT), established specifically and solely for the purpose of implementing article 8(b), began its mission.[21] There were to be working sessions twice a week at Camp Davis, Tan Son Nhut Air base, near Saigon. To facilitate communication and the hoped-for exchange of information, the United States agreed to provide a weekly liaison flight between Saigon and Hanoi. Using an Air Force C–130 aircraft, these flights began on April 7, 1973.

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[19] Several of these studies are included in Select Committee Hearings, parts 2 and 3.

[20] See chapter 6 of this report for the details of these articles. The full texts of the agreement and the protocol are published in Select Committee Hearings, part 4, pp. 212–18.

The American delegation to the FPJMT was comprised of 22 servicemen, most of whom had gained experience negotiating with the Vietnamese by association with the FPJMC. They were assisted by a staff of 22 South Vietnamese personnel. In conjunction with the U.S. delegation, a Joint Casualty Resolution Center (JCRC) was established in Thailand, and a Central Identification Laboratory (CIL) staffed by identification experts was placed under the operational control of the JCRC. The JCRC and CIL were to assist in recovering and identifying remains.

The success of the FPJMC in effecting the prisoner exchange bequeathed an optimistic spirit to the early meetings of the FPJMT.[22] It was thought that an accounting would be obtained speedily. However, that spirit of optimism and apparent cooperation did not last for any length of time. It was dissipated by the failure to observe the cease fire agreement and contention and frustration soon replaced cooperation and optimism.

The U.S. delegation construed its mission to be essentially humanitarian in nature and fully defined by the specifics of article 8(b) : to gain information and an accounting of missing Americans; gather information on location of graves, arrange for the repatriation of remains; and obtain entry rights for U.S. search operations.

The Vietnamese Communist parties, on the other hand, while initially accepting the specific terms of article 8(b), found reason after reason to delay giving an accounting. For a time they insisted on the necessity for prior agreement on all plans and activities to account for the missing. Such agreement was then repeatedly delayed either by reason of American objectives to the intrusion of extraneous matters or by reason of further Communist demands and delays. As the meetings continued, the Communist parties used the FPJMT meetings more and more as a vehicle for furthering their political demands. The PRG, for example, attempted to introduce matters which would have given it recognition as a separate government in South Vietnam. Progress in discussion was continually impeded by the intrusion of extraneous subjects. Acrimonious disputes arose among the Vietnamese parties over the diplomatic privileges accorded the delegations. Communist protestations and boycotts over alleged cease fire violations consumed other meetings. The failure to reach agreement on the agenda often preventing substantial discussions. In other meetings, the Communist parties tied the implementation of article 8(b) to the totality of the Paris Peace Agreement.

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[21] The first 8 months of FPJMT activities are described and analyzed by Dr. Roger E. Shields in the Zablocki hearings, 93d Cong., 1st Sess., December 5, 1973, pp. 15–22. See also the testimony of J. Angus MacDonald and a chronology of FPJMT activities in Select Committee Hearings, part 3, pp. 57–70 and 229–32.

[22] *Ibid.*

Two visits in May 1973, by American delegations to cemeteries near Hanoi constituted the most susbtantive achievements of the FPJMT discussions during 1973.

In December 1973, the chief Department of Defense spokesman for POW/MIA affairs, Dr. Roger Shields, reported to Congress—

> The plenary sessions of the FPJMT have become a forum for propaganda speeches, boycotts, walkouts, and general stalling tactics by the Communist delegations. * * * Nearly all sessions in the past 4 months have been characterized by stale polemics and theatrics on the part of the DRV and PRG.[23]

Whatever promise the FPJMT held for crash-site investigations was radically undermined on December 15, 1973. On that day, clearly designated and recognizable members of a JCRC search team were attacked while conducting a crash site investigation near Saigon. The DRV and PRG delegations had previously been notified of the purpose of this mission and, in fact, had been invited as usual to accompany the team. In the ambush, the American team leader and a South Vietnamese were killed, and several others were wounded. The United States vigorously protested this attack on the unarmed search team, condemned the attack at the next meeting of the FPJMT, and then proceeded to walk out of the session as a gesture of protest. The PRG denied any responsibility and claimed the search team had been conducting a reconnaissance mission. Not wanting to hazard additional American lives, the JCRC terminated crash site investigations on December 15, 1973.

As an aid to the Vietnamese Communists in resolving the status of missing Americans, the U.S. delegation to the FPJMT prepared and gave to the other delegations lists of persons still missing in action (MIA) and those known dead whose bodies were not recovered (KIA-BNR). A standard format was developed, providing the name, service number, rank, service branch, date of loss, race, nationality, sex, vehicle in which lost (if applicable), location (expressed in grid coordinates), and country of loss. The lists were in the form of computer printouts. In this manner, a request was made for information on every American, both military and civilian, as well as missing third-country nationals who had been associated with U.S. forces in Southeast Asia.

Lists of United States and other foreign persons MIA (BNR), along with letters reminding the other side of their responsibilities to provide information about these MIA (BNR), were given to the PRG and DRV delegations on five separate occasions. No response was ever received.

TABLE 2[1]

LISTS PROVIDED BY U.S. DELEGATION TO FPJMT

Date	Recipient/Delegation	Persons on List (not cumulative)
April 17, 1973	RVN-DRV-PRG	104
May 8, 1973	RVN-DRV-PRG	1,444
May 14, 1973	RVN-DRV-PRG	1,114
June 13, 1974	RVN-DRV-PRG	2,558
April 1, 1975	RVN-DRV-PRG	2,401

[1] The May 8 and 14, 1973 lists total the complete list provided on June 13, 1974.

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[23] Zablocki Hearings, 93d Cong., 1st Sess., December 5, 1973.

In August 1973, the JCRC began to prepare case summaries, an information program more detailed than the computer printout lists had been. In some instances, case summary folders contained information about one individual; in others, all persons lost in a single incident were identified in a single folder. Information in the folders consisted of a photograph, personal data, a map showing the incident location, a physical description of the individual, and details of the incident that indicated the DRV or PRG would have knowledge of the individual's status. This text was printed in English and Vietnamese. A total of 52 folders containing information on 69 individuals was given to the DRV, and 30 folders with information on 38 individuals were given to the PRG. Follow-up letters on the folders and lists were posted to the other side, but no information about any of the requests was ever received by the U.S. delegation.[24] Significantly, the DRV returned 2 case folders, claiming that the individuals described had been lost in Laos and that the U.S. delegation should, therefore, seek information from the Lao.

In March 1974, the year-long negotiations for recovering remains from two Hanoi cemeteries finally brought results. The North Vietnamese permitted return of the remains of 23 Americans who had died in captivity. The grave of a 24th American was pointed out to a visiting American team, but his remains were not returned because, they were told, he had not died in captivity but in his aircraft.

The FPJMT discussions continued in the earlier contentious vein until June 1974 when the DRV/PRG began a boycott occasioned by a particularly acrimonious dispute with the South Vietnamese. For the next 9 months, both the PRG and the DRV delegations boycotted the FPJMT meetings.

During the boycott, the American and South Vietnamese delegations continued to meet regularly. Repeated invitations to resume negotiations were sent to the Communist delegations without success.

TABLE 3

CASES PROVIDED BY THE U.S. DELEGATION TO THE FOUR POWER JOINT MILITARY TEAM

Date	Folders	Individuals	Recipient/ Delegation
August 6, 1973	5	5	DRV
August 8, 1973	5	5	PRG
August 20, 1973	2	2	DRV
August 22, 1973	3	3	PRG
August 29, 1973	5	12	DRV
Do	5	5	PRG
September 19, 1973	3	3	DRV
Do	2	3	PRG
November 7, 1973	6	8	DRV
Do	5	12	PRG
December 12, 1973	5	6	DRV
Do	2	2	PRG
April 8, 1974	9	9	DRV
Do	3	3	PRG
June 7, 1974	7	7	DRV
Do	2	2	PRG
February 26, 1975	10	17	DRV
Do	3	3	PRG

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[24] The JCRC has prepared case folders on every individual for whom no accounting has been received from the other side. These summaries are available as a basis for investigations by international teams, the Indochinese governments, or American teams, should the opportunity ever arise. An example of an individual's folder can be found in Select Committee Hearings, part 3, pp. 276–80.

The United States continued to provide the weekly liaison flight to Hanoi. The PRG and DRV delegations continued to reside at Camp Davis, where they were provided with quarters, utilities, and supplies by the South Vietnamese government, and even allowed a weekly press conference, which they occasionally used as a platform to call for the overthrow of the South Vietnamese government.

Only in April 1975 on the eve of the completion of the North Vietnamese drive for the unification of Vietnam, did the PRG and DRV delegations return to the FPJMT discussions. In late April, when the fall of Saigon to North Vietnamese forces was clearly imminent, a member of the Vietnamese delegation to the FPJMT invited his American counterparts to remain at Camp Davis. However, since they could not guarantee the security of the American delegation, the latter was ordered to the Embassy in Saigon. When the Embassy was finally evacuated at the order of President Gerald Ford, the American delegation to the FPJMT also withdrew. Commenting on the invitation given the American team to remain, Secretary of State Henry Kissinger explained at a meeting with the select committee that it was considered easier to reintroduce an American presence than to negotiate a release.

INTELLIGENCE EFFORTS

By mid-1966 the Defense Intelligence Agency had assumed the major responsibilities for POW/MIA intelligence, and had become the central repository for all information pertaining to missing Americans. Prior to 1966 and throughout the war, each service maintained its own intelligence unit which interfaced with the casualty branches. All U.S. agencies involved in the war effort were directed to forward all intelligence reports to the Defense Intelligence Agency (DIA) for analysis, correlation, and possible further action. A special code name, "Brightlight", was given this program, and Brightlight messages carried a high priority for transmission. Reporting information were the Departments of State and Defense—in particular the Defense Attaché Offices—the Central Intelligence Agency, and the National Security Agency. This requirement was also made incumbent on the corresponding agencies of our South Vietnamese and Lao allies.

This far-reaching priority aimed at correlating all available information so as to determine the fate of lost Americans.

The sources available to the U.S. POW/MIA intelligence effort were numerous and varied. These sources ranged from Americans who may have witnessed the loss of a comrade to those who were captured and later released or who successfully escaped. Friendly South Vietnamese, Lao, and Cambodian escapees, releasees, or agents furnished some information. Enemy defectors and prisoners gave further information. Walk-in, casual sources occasionally volunteered information. In addition, aerial and electronic resources were exploited to corroborate and to complement other intelligence acquisitions.

HUMAN SOURCES

Debriefings of American personnel provided reliable intelligence on some missing Americans. Thirty-one Americans successfully escaped from captivity during the war. Their information was occasionally helpful in identifying other prisoners and describing the rigors of captivity. Seventy-six Americans were released prior to the signing of the Paris Peace Agreement. During "Operation Homecoming", returning American prisoners were debriefed in detail for their knowledge of lost Americans. The information acquired from Americans before and after the signing of the Paris Agreement proved valuable in determining the status of some of their comrades.

The debriefings of thousands of friendly South Vietnamese, Lao, and Cambodian escapees and releasees also proved of value to DIA during the war. Information was solicited from additional thousands of South Vietnamese soldiers released after the 1973 Peace Agreement.

Exhaustive efforts were taken to debrief ralliers and prisoners. Between 1963 and 1974, 226,420 Viet Cong and North Vietnamese rallied to the Republic of Vietnam side. Many of these ralliers, called Hoi Chanh, rallied under inducements spelled out in the Chieu Hoi program. Roughly translated as the "Open Arms Program", jobs, spending money, and the assurance of being on the right side were offered. The record indicates that some of the many ralliers may have crossed over on the battlefield when it became expedient to do so. After capitalizing on certain pledges called for in the Chieu Hoi program, the Hoi Chanh sometimes vanished again into the jungle.

Debriefings of enemy personnel were numerically vast. For example, 44,777 enemy personnel were captured during the war. Of these, 33,824 were Viet Cong, 10,207 were North Vietnamese, and another 744 were regroupees—South Vietnamese who went to North Vietnam in 1954 and returned later to fight the Government of Vietnam. Of these POW's, some 18,000 took advantage of the Chieu Hoi program.

Defectors and prisoners were interrogated at interrogation centers. Systematic questioning followed guidelines promulgated in Intelligence Collection Requirements (ICR's). Prepared and updated periodically by the Defense Intelligence Agency, ICR's detailed explicit questions to be asked all sources. ICR's included many questions concerning possible sightings that could be associated with missing Americans. Questions ranged from descriptions of the person(s) involved, descriptions of the capture incident, prisoner treatment, security measures taken in regard to the POW, the location and characteristics of the camp and the size and organization of the operating staff.

Questions were also asked concerning the date and circumstances of each sighting. Under circumstances which suggested that additional interrogation might be productive, supplementary, follow-up questions were prepared and cabled to experts in the field. The purpose of these questions was to exploit fully the source's knowledge and lay the groundwork for further evaluation.

The Polygraph was sometimes used to evaluate intelligence sources when their credibility was suspect. Precapture photographs were used to aid in identification of unaccounted-for Americans.

The information thus acquired served as the basis for attempting rescues, determining the status of missing Americans, evaluating enemy techniques and procedures, improving American training and equipment, developing effective counterintelligence methods, and compiling a body of evidence that could be used on behalf of the captured

Americans. In addition, the vast compilations of data are an essential ingredient in aiding the Department of State's negotiation on POW/MIA matters.

AGENTS

The performance of indigenous agents in the collection of POW/MIA intelligence information was generally poor. Infiltration of North Vietam was virtually impossible because of the constrictive nature of that society. Penetrating the infrastructure of the Communist South Vietnamese with indigenous agents was relatively easy, but POW/MIA information gained there often proved perishable.[25] Most Americans captured in South Vietnam were eventually detained in Cambodia or in North Vietnam. Most of those held in the South however were moved so often that POW intelligence concerning them rapidly became obsolete.

COMMUNICATIONS INTELLIGENCE

Tactical communications provided data that could be exploited for near-term combat operations but this source of information was not generally lucrative in gaining data on specific missing individuals. On several occasions, however, extremely valuable information was gleaned on incidents and on individuals, providing in a few cases the best available data. Communications experts immediately forwarded pertinent collections to DIA for analysis and distribution in extract form into the casualty records. Because of the continuing sensitivity of this kind of intelligence acquisition, details concerning the nature and effectiveness of communications intelligence remain classified.

AERIAL RECONNAISSANCE

Aerial photography served an important function in identifying prison locations. Requirements were levied on the various air reconnaissance units to photograph suspected POW detention facilities. Uncorroborated information from sources might indicate the coordinates of a possible prison camp. Reconnaissance flights sometimes provided confirming or disproving evidence. The majority of the POW camps in North Vietnam were identified in this fashion and subsequently indicated as areas to avoid during bombing missions.[26] Largely because of this, no detention facilities holding U.S. prisoners were accidently bombed.

POW detention or holding areas in South Vietnam, Laos, and Cambodia did not adhere to conventional concepts of permanent restrictive POW camps. Instead, prisoners were held individually or in small groups, generally in small-unit highly mobile camps in the jungle. As a consequence, these installations defied detection by aerial photography. The only area positively identified as a permanent POW camp outside of North Vietnam was the Pathet Lao POW camp at Sam Neua.[27]

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[25] Reports on individuals and crash and grave sites, however, have remained useful for analysis. In 1971 many of the POW's held in South Vietnam and Cambodia were moved to prisons in North Vietnam.

[26] Select Committee Hearings, part 3, p. 313.

[27] *Ibid.*, p. 338.

FBIS

Throughout the hostilities in Indochina the Foreign Broadcast Information Service (FBIS) provided considerable information on lost Americans. FBIS monitored all plain-language broadcasts emanating from Communist capitals and clandestine stations in Indochina, as well as principal national radio stations worldwide. Invaluable information was often received concerning the fate of an individual who was missing.

Unfortunately, much information broadcast by the enemy was vague, and resulted occasionally in the mistaken classification of individuals.[28] Daily FBIS roundups were screened by DIA and other units specializing in POW/MIA intelligence matters. All relevant information concerning either an individual or incident involving missing Americans was extracted and placed in the casualty file maintained by each echelon conducting POW/MIA intelligence documentation.[29]

CAPTURED ENEMY DOCUMENTS

The U.S. Military Assistance Command in Vietnam participated with Government of Vietnam forces in intelligence exploitation of captured enemy documents. Hundreds of thousands of enemy documents were analyzed and compiled at the Combined Document Exploitation Center in Saigon. Intelligence pertaining to captured or missing Americans was extracted and distributed through proper channels.

NEWS MEDIA

Communist and non-Communist news media occasionally carried information on Americans missing or detained in Indochina. For example, many photographs, reportedly depicting American prisoners appeared in the North Vietnamese press. Many others were radiophotoed from Hanoi to Eastern Europe and appeared in publications there. These photographs were sometimes good indications of capture. There were, however, instances of deception in the Communist press. For example, in October 1966, a black and white photo depicting seven alleged American prisoners was published in Nhan Dan. All identifying material had been removed. This photograph remained unidentified until a DIA expert correlated the picture to one taken of seven U.S. flyers in the United States. The negative had been reversed and all insignia had been obliterated. In a few instances, photographs of U.S. POW's provided proof of capture of individuals whom the Communists have subsequently failed to acknowledge as such.

One capture photo published in the non-Communist press first appeared in a French magazine. The photo, taken in 1967, is the last indication of this man's survival. Most of the hundreds of pictures obtained during the war were identified in a matter of hours or days. Of this number, 115 were at one time considered unidentified. After February 1975, largely because of identifications made during "Operation Homecoming", pictures showing six individuals remained unidentified. Photographs of the unidentified have been made available by casualty assistance officers to next of kin on request. In several cases, a number of families have "positively" identified the same picture as being their missing man. Positive identification under these circumstances is complicated by a combination of physiognomic similarities, debilitation from captivity, and the passage of time. Identification is best done by impartial experts. However, even experts are unable to identify a picture when there is improper angle and clarity for accurate photographic testing.

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[28] For a detailed discussion and analysis of enemy propaganda statements, see chapter 4 of this report.

[29] DIA continues to monitor the daily FBIS reports, and during its tenure, the select committee received all FBIS reports. All such reports for the period 1961–1976 were available to the committee as needed.

INTELLIGENCE FOR THE SON TAY RAID

The operational nature of the Son Tay raid is explored in the section entitled, "Search and Rescue". The caliber of intelligence represented by the failure to rescue Americans believed to be held at Son Tay prison provoked numerous criticisms. Taken on a whole, however, the intelligence record prior to the raid is good. The genesis of the raid was intelligence obtained from a North Vietnamese prisoner familiar with Son Tay prison. Reconnaissance photography confirmed that the location was being used as a detention facility. Subsequent reconnaissance flights over the next 4 months provided ambiguous indications of the continued presence of Americans. It is an unfortunate and irrevocable fact that the Americans at Son Tay had been relocated months before the raid. The fluctuations in activity discerned through aerial reconnaissance suggested that the POW's may have been evacuated. The decision, however, was made to execute the assault. According to Secretary Laird in his testimony before the Senate Foreign Relations Committee, it was deemed important on the policy-making level that some forceful expression be made signifying concern over the treatment of American prisoners. This, coupled with information showing that a number of Americans had recently died in captivity, impelled decision-makers to order the raid.[30]

The performance record for the Son Tay raid is an eloquent example of the need for immediate exploitation of intelligence in rescue operations. The currency and value of the intelligence had expired in the more than four months of planning and training.

INTELLIGENCE EFFORTS, 1973–APRIL 1975

The wartime intelligence capabilities underwent a decline corresponding to the complete withdrawal of American fighting forces after the signing of the Paris Peace Agreement in 1973. The friendly South Vietnamese, Lao, and Cambodian governments, however, remained responsive to U.S. intelligence concerns and therefore, continuity in debriefing sources for American POW/MIA information was maintained. The volume of acquisitions slowed in the first year of the uneasy peace. Intelligence concerning several known American civilians captured after the agreement was very good. For example, knowledge of the whereabouts of Air America pilot, Emmet Kay, who was captured in May 1973 by the Pathet Lao, supported the intensive diplomatic efforts to secure his release in September 1974. Acquisitions continued throughout the final Communist offensive in 1975.

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[30] Melvin R. Laird, in testimony before the Committee on Foreign Relations, U.S. Senate, Ninety-first Congress, Second Session, November 24, 1970. See also *The Raid*, Benjamin L. Schemmer, Harper and Row Publishers, New York, 1976. This book presents the most current exposition on the intelligence, training, performance and policy considerations bearing on the Son Tay raid.

Two separate U.S.-controlled intelligence networks in Laos provided a large volume of reliable information on two young civilians captured by the Pathet Lao in September 1974. Acquisitions continued for several months—then ceased. Extensive diplomatic efforts by the United States and Australian governments failed to secure their release, and no information has been received since February, 1975.[31]

Worldwide embassy efforts also continued, reflecting the ongoing priority placed on gathering POW/MIA information. For example, American envoys in Indochina have forwarded information for evaluation by intelligence experts.

Sighting reports allegedly of missing Americans continued to come to the attention of U.S. agencies at a rate between 30 and 40 per month. Many of these reports provided useful casualty data on incidents that occurred years before. Other reports resembled sightings also of several years vintage. Other reports were obvious opportunistic maneuvers to capitalize on the continued American concern about its missing personnel. All these reports were thoroughly evaluated.

INTELLIGENCE, APRIL 1975–PRESENT

The capabilities to acquire POW/MIA information were virtually eliminated by the Communist victory in April 1975. The priority to determine the fate of missing Americans continued. Refugees both in the United States and Thailand were screened for whatever relevant knowledge they may have about lost Americans. All Americans who were trapped in the offensive were debriefed after their return to American control.

Sighting reports continue to come to the attention of intelligence experts. Some reports have been provided by next of kin after visits to Laos or Thailand. Frequently, the sources of these alleged sightings are previously discredited opportunists trying to capitalize on the concern of next of kin. No names or tangible data have accompanied these reports. Nevertheless, all information continues to be examined and evaluated by DIA analysts in an effort to resolve status questions and to support negotiations for an accounting.

SEARCH, RECOVERY AND RESCUE EXPERIENCES IN SOUTHEAST ASIA

By the standards of any war in which the United States has ever participated, the efforts to search for and recover lost American servicemen in Indochina was truly outstanding. In both World War II and Korea the number of Americans missing in action and whose bodies were not recovered reached 22 percent of the total number of servicemen killed. In Indochina, the total was only 4 percent. These statistics reflect the unparalleled effort made in the Vietnam conflict to search for and recover lost American servicemen.

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[31] A DIA-prepared summary of this case is published in Select Committee Hearings, part 3, p. 283.

TRAINING

Experience in the Korean conflict exerted considerable influence on military training after that war and in the period immediately preceding combat operations in Vietnam. More emphasis was placed on evasion, escape and survival than at any time in recent history. The Code of Conduct of the U.S. Fighting Man was a required subject within all military services.

As might be expected, training varied among the services because of the unique requirements of each service. Ground combat personnel usually received only training in evasion, escape, and survival. Due to the strain on regular ground force units to meet the manpower requirements of Vietnam, however, this training was generally a part of individual rather than unit training, so that the individual soldier was not generally highly skilled in these areas. Ground combat personnel in high-risk organizations such as long-range reconnaissance units, underwater demolition teams, etc. did, however, receive more extensive training in these subjects because of the greater risk of capture.

Aviation personnel suffer greater exposure to capture than do their ground force contemporaries. Most, but not all, of the aviators destined for service in Southeast Asia received special training in evasion, escape, and survival.

Air Force survival training was conducted mainly at Fairchild Air Force Base, Washington. All flight-crew members were required to attend. Additionally, all other personnel who could be expected to be passengers on a regular basis received the training.

The Navy required all air crew members and selected high-risk personnel to attend a survival course at San Diego, Calif. or Brunswick, Maine. Classroom training was followed by field training in POW compound procedures and evasion and escape techniques.

Army training consisted of classroom activities similar to that conducted by the other services, augmented by field exercises and basic survival courses. Selected high-risk personnel, such as those in special forces, received intensive training in these areas within their assigned units and at schools such as the Jungle Warfare School in Panama.

Marine Corps training in survival, escape, and resistance took place at the unit level for most ground combat units. Aviation and reconnaissance personnel received specialized training at Bridgeport, Conn.; Cherry Point, N.C.; and Pickle Meadows, Calif. Long-range (force reconnaissance) Marines took their jungle survival training at Cubi Point and Clark Air Force Base in the Philippines.

There is little doubt that aviation personnel were generally better prepared to face the rigors of capture than were their ground force partners. The fact that over 81 percent of the missing servicemen were airmen underscored the need for special training of aviators. Ground forces received adequate training under the circumstances, but only certain high-risk personnel received extensive training in evasion, escape, and survival.

SURVIVAL EQUIPMENT

Aircrewmen were outfitted with a variety of equipment for communicating with Search and Rescue (SAR) forces in the event they were downed over hostile territory. During the period 1964 to 1968, the principal emergency survival radios were the Air Force RT-10 and Navy PRC-63. Both emergency radios provided a single voice channel and a locally inaudible "beeper" channel. Normally, pilots checked their emergency radios with the control tower prior to take off to assure that they were functioning properly. Routine procedures called for monitoring the standard guard channel upon ejection from a stricken aircraft.

Early during hostilities, emergency radios were customarily rigged to activate automatically on ejection. Later, at squadron commander's discretion, most pilots elected to switch to manual activation of emergency radio sets.

Emergency radios were carefully accounted for as controlled items of unit equipment. By 1968, two radios were normally carried in each survival vest, together with a medical kit and a .38 caliber revolver. The URC-64 survival radio, adopted in 1968, provided a 4-band, multichannel capability.

Emergency beacons—URT-21, URT-27, and URT-33—were part of ejection systems. Pilots could eject using either manual or automatic activation of the beacon. The signal was similar to that of the emergency radio beeper.

One of the difficulties experienced in evaluating the status of a downed airman stemmed from the beeper itself. If the radio activated automatically it did not provide a positive indication that the airman had ejected without injury. In many cases aircrewmen were seriously or fatally injured on ejection, but this could not be determined by observers, since the beeper signal merely indicated that an ejection had been accomplished. The problem was further complicated in the case of two-seated aircraft with command-ejection whereby either the pilot or co-pilot could eject both occupants. A dead or mortally wounded man could be ejected by his partner. The automatic deployment of his parachute, coupled with an automatic radio signal, conveyed the impression that he had ejected successfully.

Later in the 1960's, beepers were modified so that they could be either automatically or manually activated.

Another vital piece of equipment carried by airmen, beginning in the mid-1960's, was the infra-red stroboscopic light. The strobe light was a small, hand-held, device resembling a flash light. An infra-red cover could be placed on the strobe, thereby making its signal invisible to anyone not having an infra-red receiver. The device was particularly useful in cases where a downed airman was near hostile forces. He could signal without being seen by them and rescue forces could determine his position exactly. Finally, most airmen carried flares or a flare gun to identify their position. The combination of beeper, infra-red strobe light, and flares provided an extremely effective means for locating and, hopefully, rescuing a downed airman.

SEARCH AND RESCUE (SAR) RECOVERIES

Search and rescue forces operated out of airbases and facilities in Thailand and South Vietnam, and from aircraft carriers in the Gulf of Tonkin. On large or unusual missions rescue helicopters were airborne during the missions being conducted. In other cases, the SAR forces were on standby alert, ready to assist on call.

Deployment of rescue helicopters might be initiated by the airman whose plane has been hit or by his comrades flying on the same mission. SAR could also be commenced when the prolonged loss of radio or radar contact indicated some mishap had occurred. In 72 percent of their recoveries SAR forces were called in for a specific rescue. In 18 percent of recoveries, they "happened" to be flying in the area of a downed airman when they made the rescue.

Recoveries were effected principally by helicopter, such as HH-3's, HH-53's, and HH-43's. Normally SAR aircraft were equipped to receive electronic communications from beepers and radios and to detect stroboscopic infra-red devices. Transport helicopters were equipped with jungle penetrators, a device that could drop through dense jungle foliage to reach a downed pilot and hoist him into the helicopter hovering above the jungle cover.

The SAR effort was further augmented by Royal Lao reconnaissance teams that maintained safe sites on hill tops and at remote emergency landing strips throughout Laos.[32] Location of the safe sites was known to military and civilian airmen flying in the area. Information generated by personnel operating the safe sites was channeled into American intelligence agencies. General Vang Pao was a particularly lucrative source of information, and Air America employees who traveled widely in Laos also furnished considerable useful information.

Time was especially critical in recovering the downed airman. Records indicate that the first half hour after shootdown was critical with respect to capture or rescue. Parachutists who were observed descending in enemy territory often faced a dual hazard; the enemy might have time to deploy to the vicinity of the projected landing before SAR forces could appear on the scene or, worse, the enemy might consider the descending airman to be a good moving target.

The record of search and rescue in Southeast Asia indicates the enemy often used captured radios to lure rescue aircraft into a trap. The voice authenticator system was developed to protect against the flak traps. This system required that all high-risk personnel record a sequence of facts unique to themselves, possibly referring to the name of a close relative or friend, a favorite song or professional athletic team, or a specific make of automobile. The purpose of the voice authenticator was to confirm the identity of downed airmen with facts that only they would know under stress. When dispatched, the SAR forces were provided with the authenticators of the downed airmen for whom rescue was being attempted. Authenticator data are still maintained within the Department of Defense and for obvious reasons these data continue to be protected by a security classification.

The many injuries which airmen suffered in ejection also presented hazards to the rescue forces, which were forced to spend more time exposed to enemy contact and fire while trying to rescue disabled airmen.

DOWNED AIRMEN

As a consequence of the air war in Indochina, some 5,353 American airmen were downed in combat operations. Aircraft losses included helicopters, fighter-bombers, attack aircraft, reconnaissance planes, transports, and even a substantial number of B–52 strategic bombers. Most of the losses occurred to aircraft flying as part of a flight or cell, but some were single aircraft on solitary missions. Significantly, no group of American pilots and aircrewmen has ever been better prepared to meet the emergencies they faced, nor has there ever been a more concerted rescue program in the annals of air warfare.

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[32] See Select Committee Hearings, part 3, p. 350, for a map depicting the safe sites in Laos.

The efficiency of Search and Rescue (SAR) operations is evident in the statistics available. Throughout Indochina, more than half of the downed airmen were recovered, often in the face of heavy enemy fire and at the cost of additional casualties. The generally high morale of the aviators can be attributed in no small part to their confidence that strenuous efforts would be made to extract them if they were shot down or otherwise forced to crash or bail out in regions held by unfriendly forces.

Approximately 10 percent of the airmen shot down were captured and eventually returned alive from captivity, while about 51 percent were successfully extracted by SAR forces. Chances for survival differed with each region of Indochina, but it is particularly significant that the chances for walking away from a shootdown in Laos were the same as the average for all of Indochina. Considerable suspicion has surrounded the casualty situation in Laos because only 13 aviation personnel returned alive from captivity and more than 300 remain unaccounted for by the Pathet Lao or the North Vietnamese that were operating in Laos. Certainly an explanation is required, although committee investigations suggest that the extremely low number of recorded ejections, the high incidence of injury on ejection, the absolute lack of even rudimentary medical care in Laos combined with the great distance from Hanoi where medical care was available, and the very hostile population militated against any large number of Americans surviving unless they were rescued quickly. It was in this latter sense that survival odds in Laos were equal to those for all of Indochina and better than for North Vietnam or Cambodia. Only South Vietnam offered better odds for a downed airman surviving.

The chances for a downed airman returning alive, either because of SAR or eventual release or escape from a POW camp, was 61 percent for all of Indochina. In North Vietnam only 45 percent returned alive, more than two-thirds as POW's. Less than one-third were rescued, a not unusual statistic occasioned by the intense resistance in generally populated areas where aircraft were hit. Laos, on the other hand was more sparsely populated and SAR forces had better access from airfields in South Vietnam or Thailand. As a consequence, 61 percent of the downed airmen returned alive from Laos, almost entirely as a result of the daring SAR efforts. In South Vietnam, military assets were more readily available and the generally friendly populace made rescue operations easier. Some 69 percent of the aviators shot down in the Republic came back alive, and more than 9 of every 10 were picked up by airborne rescue forces. The picture in Cambodia is somewhat different, and the relatively small number involved makes it difficult to draw meaningful conclusions. One American is still missing for each one rescued, and a similar number were determined to have died in the incident of loss. From the standpoint of a shootdown, the chances of surviving were about 34 percent in Cambodia.

Table 4 reflects the shootdowns in all of Indochina and the various categories of survival or loss.[33] The tables on the facing page show the approximate data for each of the four major geographical areas of the recent combat.

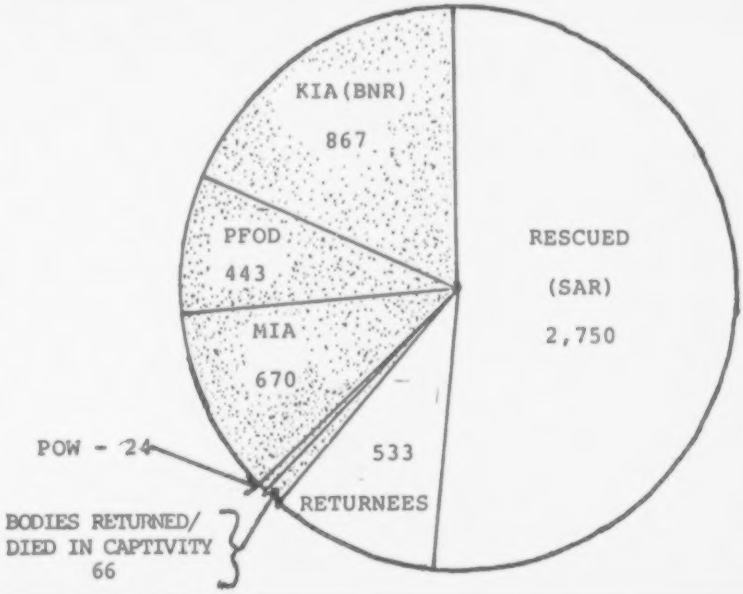
BATTLEFIELD RECOVERIES

Ground force efforts to recover servicemen were similarly excellent. While the nature of ground combat makes documentation of these efforts extremely difficult, the select committee takes cognizance of the low proportion of missing ground troops, the many courageous

TABLE 4

PERSONNEL LOST IN AIRCRAFT INCIDENTS

SOUTHEAST ASIA[(a)]



(a) Abbreviations: BR = Body Recovered, DIC = Died in Captivity, and KIA(BNR) = Killed in Action (Body not Recovered).

The numbers shown for missing personnel include those listed as Prisoners of War (POW's), Missing in Action (MIA's), and presumed dead (PFOD).

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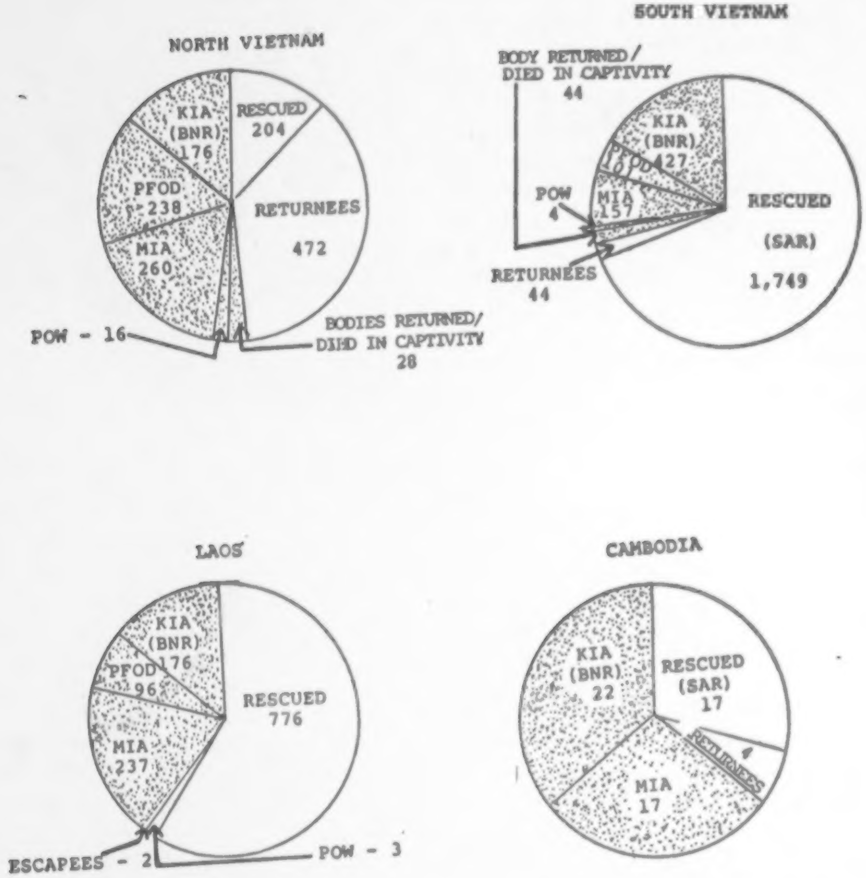
[33] There may be a small discrepancy in these figures due to variations in total rescue figures ranging from 2,600 to 2,900, and to small losses over Thailand and China. The total number of 2,750 rescues was listed by General Vernon A. Walters in testimony before the select committee, *op cit.*

DOWNED AIRMEN



rescues made during firefights, and the numerous ground force rescues of downed airmen.[34]

SPECIAL RESCUE EFFORTS

Special operations were mounted during the war to rescue American prisoners. A few of these were coordinated at MACV Headquarters in Saigon by the Joint Personnel Recovery Center (JPRC), the predecessor of the Joint Casualty Resolution Center (JCRC). Rescue efforts were triggered mainly by intelligence acquired from informants or enemy personnel. The JPRC, however, did not have the operational capability of launching rescue operations. Such operations were recommended to MACV, which would then direct an operational unit to attempt a rescue. In view of the length of time for intelligence to generate into an operational requirement, and the fact that MACV had no specially trained rescue forces, it is not surprising rescue attempts were not successful in freeing any Americans.[35] This aspect is discussed in the intelligence section of this chapter.

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[34] Some of these are mentioned in a letter from "Pop" Buell. Others were related verbally by a wide range of persons who served in Vietnam. Still others were experienced by the select committee.

Benjamin T. Schemmer, in *The Raid*, points out there were 119 rescue missions attempted in Indochina. None of these efforts yielded a live American, although 318 South Vietnamese soldiers and 60 civilians were rescued. The value of intelligence for rescue operations was generally short-lived. Many of the raids failed due to movement of the POW's after they were reported on, but before a rescue attempt was launched.

An example of a formal rescue operation in South Vietnam was the effort to recover Specialist Larry D. Aiken in July 1969. A rallier had provided information indicating the circumstances of Aiken's detention. A combined heliborne assault was made by elements of the Fifth ARVN Regiment and the 101st U.S. Airborne Division. The mortally wounded soldier was rescued. He died two weeks later from the bludgeoning he had received by his captors shortly before his rescue.

SON TAY

The most publicized operation to rescue known American prisoners was the raid on the North Vietnamese POW camp just outside Son Tay, North Vietnam. Confirmed intelligence that American prisoners were being held at Son Tay was available on May 9, 1970. The POW's were moved from Son Tay on July 14 and the raid did not take place until November 21. The raid was executed by a highly specialized, voluntary, intra-service force. The assault force trained intensively for 3 months at Eglin Air Force Base in Florida. Ironically, the prisoners had been relocated before the assault team was ever assembled at Fort Bragg, N.C. Success was doomed because of the inability to capitalize operationally on perishable intelligence. The policy considerations that culminated in the decision to raid the possibly empty prison are discussed in the intelligence section of this chapter.

Despite its severe shortcomings, the Son Tay raid achieved a number of desirable results. Prisoners were consolidated in the more formal detention facilities near Hanoi. Some men had been isolated for years in remote areas, and for the first time they were able to associate with a large number of fellow Americans. This windfall gave rise to establishment of the very effective memory bank system. According to testimony by Secretary Laird the raid was evidence to the POWs, that efforts were being made on their behalf.[36]

Certainly the excellent morale and physical condition of the returnees from Hanoi is in large measure due to the excellent organization of the POW's in 1971–73, which was caused by the Son Tay raid. The record of combat rescue atteempts in Vietnam shows that, in view of the dangers posed to both the prisoners and the rescue forces, a high degree of specialized training is required for successful combat rescues.

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[35] *The Raid* Benjamin T. Schemmer, Harpers and Row, 1976, pp. 237–239.
[36] Op cit., p. 282.

PERSONNEL EFFORTS

CASUALTY ASSISTANCE

The families of Americans serving their country in wartime have the right to be fully and accurately informed of all data pertaining to the circumstances of loss and the status of their missing relative. Most wives and parents are not familiar with military procedures. Hence, they must be informed by military representatives on all matters of direct concern to them. After the shock of initial notification, they require information on the rights and privileges due them, including pay and allowances, hospitalization entitlements, commissary and post exchange privileges, income tax exemptions, entitlements to residence in post quarters or to moving expenses, and many other complicated and technical areas. The situation is extremely delicate and calls for great sensitivity on the part of the military services.

In general, it can be said that the Department of Defense recognized these rights and with certain exceptions, met its responsibilities.

Following an engagement in which an American was lost, a prime responsibility of the local commander was to initiate a report of the incident to the service headquarters. It was the responsibility of the parent service to notify the next of kin of their relative's loss and keep them informed of all pertinent developments. For these purposes each service generally assigned military personnel situated in the vicinity of the affected next of kin. This approach allowed the officer to be readily available on a continuing basis in the critical, painful days after initial notification. Officers were provided with the requisite information and directed to make a personal call on the next of kin as soon as possible. Official notifications, generally telegrams, were also provided to family members.

In the course of the war, as the number of missing Americans continued to grow, each of the services studied and refined the program of assistance to the next of kin.[37] Publications and newsletters were prepared to provide information of use and comfort. These publications included pertinent information on the POW/MIA problem, as well as instructions for mailing letters or packages to those known or suspected to be prisoners of war. Included, too, was a list of programs and financial benefits that accrued to next of kin while their relative was in missing status, and instructions for obtaining those benefits.[38]

In addition, the Department of Defense initiated a program in 1970 entitled COIN ASSIST, by which next of kin were able to take military flights on a space available basis for humanitarian purposes connected with the POW/MIA issue. These flights were used by next of kin for attendance at national meetings of POW/MIA organizations and for transportation to service headquarters to review their relative's case.

Service representatives attended national and regional meetings and conventions of POW/MIA organizations to apprise next of kin of pertinent developments.

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[37] The services reported to Congress on their family assistance programs in 1969. See Zablocki Hearings, 91st Cong., 1st Sess., November 13, and 14, 1969, pp. 100–04.

[38] A copy of the Army pamphlet printed for next of kin is published in Select Committee Hearings, part 5.

The services continued to update their handbooks for the next of kin.

In the months and years following the incident of loss, the casualty assistance contact officer (CACO) served as the official conduit of information between the parent service and next of kin, providing counsel and advice where appropriate and needed.[39] The services could not guarantee compatibility between the CACO and next of kin, nor could there by any guarantee that the casualty officer was familiar with all the technicalities of each DOD program. It took time to learn such details, as it took time to build a relationship with the next of kin. Since those serving as casualty officers were generally career officers, they would invariably be reassigned to other stations, necessitating the appointment of new officers. The learning and building process then had to begin afresh. As one MIA mother said in conversation with the select committee, "Just when I got my casualty officer broken in, they reassigned him to Europe. The new one goes strictly by the book." This complaint, made partly in jest, is testimony to the efficacy of the family assistance program and the highly personal relationships that often developed between the casualty officer and the next of kin. It is evident from talking to a cross-section of next of kin that the vast majority of the family assistance officers performed their tasks in a highly commendable manner, and that this attempt to personalize governmental bureacracy in an extremely awkward situation met with a relatively high degree of success. Not surprisingly in a situation fraught with emotion, some personality conflicts inevitably developed. However, these conflicts occurred in only a small fraction of cases and appear to be only personality conflicts, not program conflicts.

It is the complex of problems associated with status determination that has caused a great deal of the pain, sorrow, frustration, and false optimism experienced by MIA families. The sudden, tragic loss of a relative, combined with concern over the uncertainty of his fate, impelled many next of kin to study, analyze, and scrutinize again and again the slightest bit of information forwarded through official channels. In this context of microscopic examination, analysis, and reanalysis, the nuances of every word could bear immense significance. That the armed services were occassionally insufficiently careful, and where the release of classified information could jeopardize the safety of other servicemen, sometimes deliberately deceptive in conveying information to the next of kin is clear from the record.

In numerous cases, local commanding officers submitted exceptionally optimistic reports or judgments on the incident of loss. Many individuals were placed in MIA status when the circumstances of their loss suggested strongly that they had expired in the incident. For example, in several instances eyewitnesses reported that they believed a fallen comrade had suffered fatal wounds and was dead, but in the absence of their having checked scrupulously for vital signs, reviewing authorities recommended they be classified MIA.[40]

The committee notes that the tenor of official correspondence often contributed to a false sense of optimism. Beginning with correspondence related to the incident of loss, the record is replete with examples wherein the military services advised that the possibility of survival or capture existed, when, in fact, the circumstances of loss strongly suggested otherwise.

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[39] A copy of an instruction manual for the Army casualty officers is reprinted in Select Committee Hearings, part 5.

[40] See chapters 4 and 9 of this report. For further details on classification and misclassification.

As noted above, the initial determination that a serviceman was MIA, not KIA, was often based principally on nonrecovery of remains. Yet subsequent reports, including letters from the serviceman's commanding officer and personnel directorates, too often encouraged a belief that the missing man was alive. For example, one letter reported that an airman lost at sea had a good chance of survival because "he was a good swimmer", even though the distance to land would have made it virtually impossible to swin ashore. Speculative judgments that the serviceman could escape and evade fill much of the correspondence. Some letters said the probability of survival was high. "The Commander believes that Lt. John Doe survived due to the fact that he was in excellent health and was well trained in survival techniques." In actual fact, during the entire Indochina war, only two Americans ever escaped and evaded to freedom in Laos. In South Vietnam, there were 29 successful escapes, but there were none in North Vietnam or Cambodia.[41] Correspondence also emphasized that further information was being sought, might indeed be found, and would be reported to the next of kin when it became available.

A second example of creating false optimism could be found in the language used to advise next of kin of promotions granted to missing servicemen, who were routinely promoted in rank with their contemporaries. Such phraseology as "we share your pride in the well-deserved promotion of Lt. Doe" could not help but suggest that the missing man was still alive. Moreover, such phraseology led suspicious minds to believe that the Department of Defense might indeed be withholding certain information from the next of kin. Again, in a vast number of cases, there was no basis for creating the impression that the man was still alive.

Still other examples can be found in the encouragement given to next of kin to send letters or packages to Vietnam for possible delivery to their missing American. The services told the next of kin how to write a letter to the serviceman on the assumption that he might be a prisoner. This advice was often accompanied by reports on the daily routine of prisoners, as well as information on U.S. Government and international efforts to obtain an accounting for and/or improve conditions for American prisoners. In the great number of cases, however, there was no evidence to suggest that the individual was, in fact, a prisoner of war. Next of kin, clinging to every hope, dutifully mailed packages, only to suffer grievous disappointment with the return of the packages by North Vietnamese authorities.

In the mandatory case reviews on the 1-year anniversary of the incident, the service also added to the belief that the MIA was alive. In correspondence, the services usually said there was no additional evidence to indicate that the missing man was dead, and that due to the circumstances of the case, it was reasonable to continue him in a missing status. Rarely in this correspondence with next of kin did the services reemphasize the fact that the probability of survival was very small, though the initial determination was made on just such "evidence".

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[41] See chapter 4 on Survival.

This aspect of the correspondence, which was undoubtedly prompted by kindness, sympathy, and the desire to make the loss as painless as possible, had the unintended consequence, then, of nourishing unwarranted hopes and feeding illusions.

THE PROBLEM OF CLASSIFIED DOCUMENTS

The deceptive tone of false optimism that often characterized official correspondence was far less serious than the deliberate and intentional deception of the next of kin. Under constraints from the executive branch of the government, the Department of Defense was prohibited from admitting that American armed services were engaged in military operations in Laos. Whatever the other consequences for the American public, the so-called "secret war" in Laos had a profound impact on the POW/MIA issue and the next of kin of missing Americans. The Defense Department was put in a position where, deliberately and intentionally, it had to falsify reports and information conveyed to the next of kin. Coordinates of loss had to be fabricated to show that pilots were lost in different locations over North or South Vietnam.

Inevitably there were inconsistencies. Continued falsification could not withstand the pressure of close scrutiny. Pressed by family members to explain discrepancies in reports of their missing relatives, service spokesmen could only retreat into vagueness and obscurantism.[42]

When the secret war in Laos became public knowledge, some next of kin discovered, to their utter dismay, that the services they had trusted for accurate information had been misleading them, in some cases for years. The disillusionment was profound.

The American public was denied knowledge of the "secret war" in Laos by the security classification system. Military operations in Laos, especially in their particulars, were considered classified information not to be released to the public for fear it would jeopardize American security and lives.

Important and necessary in principle, the security classification system eventually became omnivorous and distended, resulting in overclassification and an excessive concern with protecting security information where there appears to have been little reason. Some of the most heated complaints of the next of kin and the greatest mistrust of military officials derived from the security classification problem. Search and rescue reports as well as reports gleaned through communications intelligence were sometimes withheld from the next of kin until after hostilities and commencement of a general declassification program.

Hearing frequent complaints that the Defense Intelligence Agency was withholding information, the select committee on several occasions during the course of its investigation compared the files maintained by the DIA and those maintained by the parent service. With one exception, members of the select committee were satisfied that the essence of reliable information bearing on an individual's status had been excerpted from intelligence reports and included in the parent service's file on the individual at least during the recent past.

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[42] An MIA father described to the staff his extensive efforts to learn more of his son's loss, reportedly near Khe Sanh. Only after a substantial period of time did he learn that his son's aircraft had gone down in Laos.

It is important to note that the committee uncovered no evidence that any reliable information that any American was alive was ever withheld from the next of kin. However, it was discovered that on a few occasions reports related to the death of a specific individual, but of dubious reliability, were withheld.

On the other hand, the committee recognizes the complex of problems associated with uncorrelated reports. Uncorrelated reports are reports of varying reliability that cannot be associated with a specific individual with any degree of certainty. The practice of DIA was to analyze the report, then put it in the file of every individual with whom it could possibly be correlated at some future date when new information was received that could verify, refine, or disprove the report.

When the process of declassification began, reports of dubious reliability and some uncorrelated reports were forwarded to next of kin, some of whom now felt important "information" had been withheld from them. The committee recognizes the problem of furnishing uncorrelated reports to the next of kin and senses the problems involved in the possibility that many next of kin, clinging to every shred of hope, may become amateur intelligence analysts.

The committee is of the firm conviction that any information correlated with a specific individual should be provided to the next of kin.[43] In cases where the source of the information is sensitive or the means by which it was obtained must be protected, the basic information should be excepted to provide all specific reports to the next of kin, while only sources or methods are deleted.

The committee appreciates the exceptionaly personal nature of casualty notification and counseling and recognizes that the human element implicit in these endeavors cannot be legislated nor treated in such a highly structured way as to eliminate the responsible judgment and initiative demanded of casualty officers. In at least two cases known to the committee, MIA wives were not informed of all of the details concerning their husbands' fate until long after their loss because of the gruesome nature in which they were reported to have died. In retrospect, the wives agreed that the information was properly withheld during the more traumatic period that faced them. In another case, a minister berated the Department of Defense for having apprised an MIA wife of the circumstances of her husband's death. No two next of kin would react in precisely the same way to distressing news. As a consequence, personnel assigned the difficult task of providing family assistance must be permitted to exercise their best judgment in specific cases.

That is not to say that the committee encourages withholding information—quite the contrary. The general guidelines should be to inform family members as completely and honestly as possible of all pertinent details of a man's status. In certain circumstances, however, casualty officers should be permitted sufficient latitude to judge the appropriate time and circumstances for a complete revelation of unusual information.

On several occasions through the course of operations in Indochina, next of kin visited Southeast Asia in personal pursuit of information on their missing relative with the hope of convincing Indochinese officials of the humanitarian nature of their requests. Invariably the next of kin visited the American embassies in Thailand and Laos, and the Joint Casualty Resolution Center (located first at Nakhon Phanom, later at U'Tapao, Thailand, currently at Barbers Point, Oahu, Hawaii). During the visits, many were shown the case files maintained on their missing relative. Many were struck first by the difference in size of the file maintained by JCRC and that of the parent service. Some returned on later occasions to discover the size of the JCRC file had been reduced or expanded. These differences in the files were baffling to some, suspicious to others.

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[43] On behalf of the select committee, Chairman Montgomery communicated to the Secretary of Defense the request that declassification be speeded.

By the very logic of its functions, the JCRC case file differed in many respects from that maintained by the Defense Intelligence Agency and the parent service.[44] The JCRC case file was operationally oriented to assist in search and recovery operations at crash sites or grave sites. In addition, uncorrelated information that did not necessarily relate to that individual was often included in the JCRC working file in the hope that at some later date it might be correlated. Exposure to uncorrelated data or classified information which had not yet been extracted or declassified for use in the service's file gave rise to further wide-spread distrust of the military service and the Department of Defense. Next of kin again felt that vital information was being denied them or that individuals or the services were deliberately withholding information. Adding to this impression was a one-time JCRC practice of classifying airmen, whose crash site was unknown, to be in Hoa Lo Prison, Hanoi. Next of kin who had seen such classifications were naturally upset when later presented different facts.

The concern and determination shown by the next of kin to gain information on their missing relative needs no documentation. It is well known and elicits great admiration. Basing themselves initially on information provided by the military services, many next of kin schooled themselves on the war in Vietnam and Indochinese affairs. As they continued to study the available information, discrepancies, erroneous judgments, and plain mistakes made by the services surfaced.

An illustration of an error, 3 years in the correcting, concerns the loss of an F-111 in 1972, immediately after that type aircraft was reintroduced to combat. The plane in question departed its base in Thailand to attack a target near Yen Bai, northwest of Hanoi. Radio and radar contact with the plane was lost as it entered Lao airspaces. Search and rescue operations were conducted over a 2-week period along the planned flight path to Yen Bai, although concentrated in the area of the last known radar contact just inside Laos. Hours after the plane was overdue, Radio Hanoi announced downing an F-111 near Yen Bai. Strangely, on the computer printouts given to the PRG and DRV, one of the airmen was listed as MIA near the Thai/Lao border; the other was listed near Yen Bai. The father of the airman listed as lost near the Thai/Lao border petitioned the Department of Defense for 3 years to change the loss site to Yen Bai, but it was not until 1976 that the change was made. When queried by the select committee, DOD officials acknowledged that a mistake had been made but could not affix the blame to any particular person or reason.

The committee's concern turned immediately to the question whether or not the error prejudiced a possible accounting in the pilot's case. There is no way to determine that answer with confidence since, to date, there has been no substantial accounting, but there does not appear to be any reason for the Vietnamese to withhold an incident report or the remains for either airman when ultimately they do render an accounting.

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[44] For further details on the purposes of these files, see chapter 4 of this report.

Mistakes and errors of this kind were not common, but they did happen. In another context, they would have been only frustrating, but in the context of suspicion and mistrust generated first by the divisiveness of the war itself and then by the cover-up connected with the "secret war" in Laos, mistakes of this kind became, for some, signs of a conspiracy. Not only did such mistakes cause unnecessary distress for the next of kin, but they intensified and perpetuated, among a very small number of families, a suspicion of disinterest and negligence on the part of the military services.

Despite the shortcomings noted herein, casualty assistance rendered by the services to the vast majority of POW/MIA families won accolades of appreciation and admiration from the next of kin. The committee recognizes the immensity of the casualty assistance effort, and the thousands of hours and days in which dedicated servicemen strove to meet the needs of MIA/POW next of kin under very trying circumstances.

PAY AND ALLOWANCES

As has been pointed out, the initial classification of a missing individual is the responsibility of the operational commander, although in some cases, the final determination is approved at the Washington level. That classification has direct bearing on pay and allowances for the serviceman and for his dependents.

The POW or MIA must rely on his parent service to administer his estate during the period of his absence. If he has left appropriate instructions, the parent service will comply with his stated desires. If he has failed to exercise his options, then his parent service must exercise its best judgment in administering his estate.[45]

When, after a case review, an MIA is presumed to be deceased, and a presumptive finding of death is rendered, the financial aspects of his case are administratively closed. Pay and allowances disbursed to dependent next of kin cease. In the event there are no dependent next of kin, deposits in the uniformed services savings deposit program (USSDP) cease.[46] The estate of that individual is then probated, and beneficiaries, either designated by him or delineated in regulations or law, receive their due portions of his estate.

During the period in which a serviceman is carried as MIA, his dependent next of kin receive his full pay and allowances on an income-tax-free basis. These disbursements include the following:

Base pay.
Basic Allowance for Quarters (BAQ).

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[45] Although an exhaustive inquiry into this situation was clearly beyond the capability of the select committee, the members note only one case in which a returning prisoner of war contested financial judgments made by his parent service: *James E. Bean* v. *United States*, U.S. Court of Claims, filed September 11, 1974.

[46] The USSDP was inaugurated in 1966 to permit servicemen serving in a combat zone to deposit portions of their pay and allowances at 10 percent interest per annum compounded quarterly. The maximum amount authorized was originally $10,000, but in 1970 Pub. Law 91-200 abolished that limit for POW's and MIA's whose dependents may also make deposits. Pay and allowances for missing personnel without dependents accrues to their accounts in the USSDP. The program now contains approximately $55 million.

Basic Allowance for Subsistence (BAS).
Family Separation Allowance.
Hostile Fire Pay.
Flight or Hazardous Duty Pay.
Clothing Allowance (for enlisted personnel).
(Unalloted pay accures in the USSDP).

Change in status from MIA to presumed dead (PFOD) has an immediate and important effect; pay and allowances shown above cease, a lump sum settlement of the estate is made, and survivor benefits commence in those cases where there is a bonafide dependent. Monthly income of dependents would normally drop to about one third of that received during the period that they were receiving full pay and allowances.

Further, charges have been made that in some cases the financial advantages of continuing missing personnel in MIA status figure prominently in the efforts to prevent further status changes. No aspect of the POW/MIA problem has caused greater outrage domestically than this charge, mainly among parents and wives who seek so assiduously to gain an accounting and whose motivation is impugned by these charges. Despite emotional considerations which make this topic sensitive, it was necessary for the committee to explore the financial impact of the current program with respect to its adequacy for next of kin as well as in the perspective of possible future conflicts with potentially greater numbers of missing Americans.

It was in this context that the committee received testimony on benefits from the Department of Defense. The committee must note that DOD provided that testimony with great reluctance. Department officials have avoided discussing costs involved after earlier attention to financial considerations brought a storm of protest from dependents and other interested parties.

An illustrative case provided by DOD appears in detail in part 4 of the select committee hearings. A portion of that illustration is shown below as a basis for certain judgments that need to be made. First, it must be pointed out that no two cases are the same. Benefits are specified by law for POW/MIA dependents just as they are for survivors of fighting men known to have been killed in service.[47] Those benefits are influenced by the service and family profile of each separate individual. What this case shows is that dependents of MIA's receive substantially greater benefits than KIA dependents during the period that a serviceman is listed as MIA (or POW); that lump sum settlements upon presumption of death are much larger than for those declared KIA; and that after a presumptive finding of death reasonable survivor benefits are provided, although they are considerably less than those received during the period of MIA. It is also important to note that the lapse of time between date of loss and presumptive finding of death has a cumulative impact on the nature and amount of survivor benefits.

This illustration shows monetary benefits due the family of an officer KIA contrasted with those due an officer of the same rank and family profile classified MIA on the same date and then presumed dead 9 years later.

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[47] Approximately 57,000 American servicemen were killed in Indochina.

In compiling these figures we established the folloying parameters:

(1) A military captain (0–3), 29 years old, 8 years service.
(2) Married, wife age 27, 3 children born Jun 59, Aug 60, and Jan 62.
(3) Crew member of aircraft downed in Southeast Asia, 1 July 1966.
(4) Wife not gainfully employed during MIA period.

In this comparison, only federal monetary benefits due the family of the aforementioned officer are shown assuming:

(1) He is declared killed in action (KIA) as of date of incident (1 Jul 66).

(2) He is carried as MIA from 1 Jul 66 through 30 Jun 75 and on 1 Jul 75 a presumptive finding of death (PFOD) is approved by the Secretary of the appropriate Military Department.

This comparison does not deal with numerous special programs instituted for the benefit of our MIA/PW families (not available to our KIA families), and for which a monetary sum cannot be established.

Period	Reason for change	Monthly pay and allowances	Total pay and allowances for period	Total pay for KIA widow for same period	Difference
July 1, 1966 through September 1967 (15).	Initial	$1,086.23	$16,293.45	$7,440.00	$8,853.45
Oct. 1, 1967 through June 30, 1968 (9).	Pay raise (PR)	1,121.63	10,094.67	4,788.00	5,306.67
July 1, 1968 through June 30, 1969 (12).[1]	Promotion (major) PR and fogy (10).	1,283.73	15,404.76	6,600.00	8,804.76
July 1 1969 through Dec. 31, 1969 (6).	Pay raise	1,383.33	8,299.98	3,398.00	4,901.98
Jan. 1, 1970 through June 30, 1970 (6).[2]	do	1,435.33	8,611.98	3,888.00	4,723.98
July 1, 1970 through Dec. 31, 1970 (6).	Fogy (12)	1,514.63	9,087.78	3,888.00	5,199.78
Jan. 1, 1971 through Dec. 31, 1971 (12).	Pay raise	1,594.98	19,139.76	8,136.00	11,003.76
Jan. 1, 1972 through June 30, 1972 (6).	do	1,744.58	10,467.44	4,278.00	6,189.44
July 1, 1972 through Dec. 31, 1972 (6).	Fogy (14)	1,803.28	10,819.68	4,590.00	6,229.68
Jan. 1, 1973 through Sept. 30, 1973 (9).	Pay raise	1,885.48	16,969.32	7,119.00	9,850.32
Oct. 1, 1973 through June 30, 1974 (9).	do	1,966.48	17,698.32	7,279.00	10,419.32
July 1, 1974 through Sept. 30, 1974 (3).	Promotion (lieutenant colonel) and fogy (16).	2,206.28	6,618.84	2,685.00	3,933.84
Oct. 1, 1974 through June 30, 1975 (9).	Closeout	2,309.72	20,787.48	8,100.00	12,687.48
Total			170,293.46	72,189.00	98,104.46

[1] KIA yearly income $8,016; KIA monthly income $668.

[2] MIA yearly income $18,912; MIA monthly income $1,576.

APPROXIMATE SURVIVOR BENEFITS

	MIA wife Paid in 1975	KIA wife Paid in 1966	Difference
Gratuity	$3,000.00	$3,000.00	
Social Security burial	255.00	255.00	
Serviceman's group life insurance [1]	20,000.00	10,000.00	
Air Force burial	0	0	
Unpaid leave [2]	16,235.10	1,622.46	
Social Security retroactive [3]	43,065.00	0	
Total lump sum	82,555.10	14,877.46	67,677.64
Total income 1966–1975	170,293.46	72,189.00	98,104.46
Total benefits, 1966–1975	252,848.56	87,066.46	165,782.10

[1] In addition to any commercial life insurance.

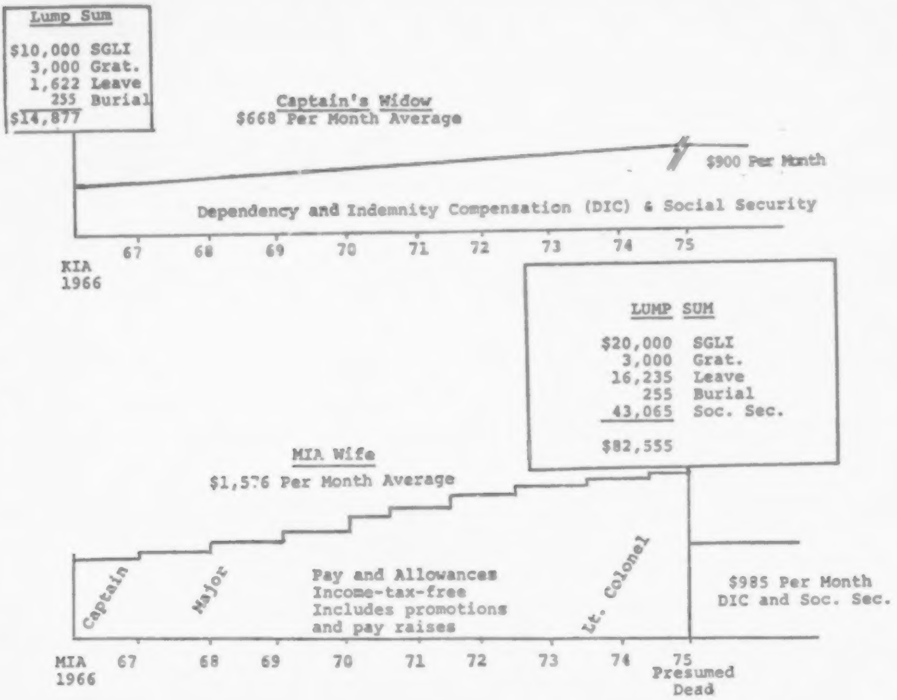
[2] Entitled to accrued leave pay up to 60 days, plus 150 days for MIA period, paid at a rate of pay and grade in effect at status change.

[3] Generally from date of incident.

APPROXIMATE MONTHLY INCOME FOR WIDOWS BEGINNING 1975

	MIA wife	KIA wife
Dependency and Indemnity Compensation (DIC)	$424.00	$339.00
Social Security	561.00	561.00
Survivor Benefit Program [1]	0	------------
	985.00	900.00

[1] In those cases where an MIA has more than 20 years service, the widow, on presumption of death, is entitled to receive the Survivor Benefit Plan (SBP) which provides 55% of the retired pay the MIA would have received had he retired on the date he was presumed dead. Retired pay is based on 2½% of base pay for each year of service. The SBP is offset by DIC payments, but is payable for life or until remarriage, and it is reinstituted if a remarriage is terminated.



The select committee notes that lengthy periods of MIA or POW status contribute to a compounding of the disbursements or survivor benefits due. During missing status, increases in pay for longevity are automatic approximately every 2 years. In addition, missing members are automatically promoted at the same time that their contemporaries are promoted. About half of those carried as missing have been promoted two or more times, and as many as five promotions have resulted in the cases of some members.[48] Each of these pay increases is disbursed to next of kin or it accrues in the USSDP for the missing member. Since determinations or presumptions of death do not have retroactive effect on pay or allowances, there is a compounding effect on all disbursements, but the effect is most noticeable in the lump-sum payments. These are generally computed based upon the rank, length of service, and income of the member at the time the finding is rendered rather than upon his rank at the time of loss. Further, survivor benefits, such as DIC or survivor benefit plan are based upon his most recently acquired rank and income.

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[48] It has been service policy to promote POW's and MIA's virtually automatically when they become eligible according to statute or meet time-in-grade requirements, but those promotions are limited to colonel/captain (O–6) and the senior enlisted rank of E–9. In November 1971 Pub. L. 92–169 made promotions while MIA valid for all purposes, thus ensuring that survivor benefits would be based on the highest rank attained even in cases where actual date of death was determined to have occurred prior to the presumptive finding of death.

Promotions are generally awarded to the "best fitted," contingent on expected performance in the next higher rank. The promotions devolving on actual POW's and on servicemen classified as MIA were automatic.

Certain inequities are apparent in this policy. The competence of POW's/MIA's could not be judged in absentia. Further, their loyalty to the U.S. Government and fellow prisoners could not be measured until after repatriation. In this connection, the performance while captured of a very small number of POW's was of such a nature as to bring discredit to them and punishment or harsh treatment to their fellow POW's. Clearly this small number did not merit any promotions.

With respect to the MIA's, evidence now suggests that most did not survive the incident of loss; yet automatic promotions occurred, thereby unduly increasing the financial obligations of the Federal Government. These promotions were also inequitable when compared to benefits provided next of kin of those known to have been killed in their nation's service.

The difficulties and inequities of this recent policy could be overcome if rank were frozen at the time of loss. Returning POW's whose performance of duty and loyalty while captured were satisfactory could then receive appropriate retroactive promotions with eligible contemporaries. Conversely, returnees whose actions were proven to have given aid and comfort to the enemy would not enjoy those considerations.

The committee takes no issue with most of the compounding effects of benefits during hostilities, since those benefits are small recompense for an individual MIA's personal sacrifice and the psychological trauma suffered by those in the uncertain limbo of MIA dependents. In the aftermath of recent hostilities in Indochina, however, the status as POW/MIA has been continued artificially for a significant number of missing servicemen for nearly 4 years. In addition to increasing Federal monetary obligations for the future, the unnecessary prolongation of MIA status has impacted severely and painfully on many families who would prefer an end to the uncertainty surrounding the status of their loved one. The committee also noted that disbursement of retroactive social security survivor benefits from date of loss to date of presumptive death appears to duplicate payments made in the form of pay and allowances for that same period.

Next of kin play no role in the initial status determination, nor should they dictate the time and circumstances of status reviews and status changes. The benefits accruing to them during missing periods, and the survivor benefits paid to them after determinations have been rendered, are provided for by public law. They are entitled to them and deserving of them. This is not to say, however, that benefits should be paid indefinitely, particularly when the provisions of public law make it clear that an individual status should be examined when there is a reasonable basis for changing that status.

There is no case on record in previous wars in which an individual having once been presumed deceased later returned alive. In nine cases, however, individuals in Vietnam initially classified as KIA were later found to have been prisoners of war. Each of the nine did return during Operation Homecoming. In eight of these cases, status was changed from KIA to POW during the war, based on intelligence information. In the ninth case, it was not until the North Vietnamese provided a roster of prisoners on January 27, 1973, that his status was known.

Government death benefits were paid to next of kin in each case. In several cases, commercial life insurance policies were also paid. Later, when it was learned that eight of these men were POW's, their back pay and allowances were recomputed, with increases calculated for longevity or promotions, at 10 percent interest compounded quarterly.[49]

Dependents in the meantime had received thousands of dollars in survivor benefits in addition to the lump-sum death benefits disbursed. No attempt was made by the government to reclaim any of those funds since they had been paid and received in good faith. Regular disbursement of tax-free pay and allowances was again provided to dependent next of kin. Commercial life insurance companies in some cases made initial efforts to reclaim amounts paid, but generally these companies dropped their actions because of the unique circumstances and fear of bad public relations. In at least one case, the commercial company settled out of court for 25 percent of the face amount paid out.

IDENTIFICATION OF REMAINS

Another responsibility of the military to the missing servicemen and their next of kin was the recovery, identification, and repatriation of remains.

Recovery and proper burial of remains in registered cemeteries has been a requirement written into Army regulations since the beginning of the Civil War. The Quartermaster General of the Army, in his capacity as Chief of the American Graves Registration Service, was responsible for this unique task. That agency evolved into the Armed Services Graves Registration Office (ASGRO) which now formulates policy and provides technical direction for the return of dead or interment overseas. The ASGRO functions under direction of the Joint Chiefs of Staff, and during time of war it operates a central clearing house for all the services' graves registration records.[50]

Actual recovery, identification, and burial of the dead is accomplished by a field element, the Joint Central Graves Registration Office (JCGRO) which is established in each major overseas command. The JCGRO also manages cemeteries in active theaters of operations and maintains applicable records. All recovered remains are identified by

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[49] In the ninth case, the young man was a bachelor with no dependents. His parents received the SGLI and death gratuity payments. No commercial life insurance was involved. When he returned in Operation Homecoming, he recovered all back pay and allowances with interest and promotions. His parents were not asked to return the lump-sum death benefits they had received earlier.

[50] Also see Select Committee Hearings, part 5.

JCGRO personnel before final disposition can be made. Identification procedures include the following:

Preparation of an anatomical chart reflecting scars, tatoos, distinguishing features, injuries, etc., or a skeletal chart if only bones are recovered.
Preparation of a dental chart.
Completion of a fingerprint chart when possible.
Visual identification by an associate when possible.

The magnitude of effort involved in the graves registration function is best illustrated by statistics from World War II. There were 360,848 American servicemen killed during that war. Some 282,075 remains were recovered of which 97 percent were identified. The remaining 78,773 were declared nonrecoverable at the time. It is important to note, however, that recovery operations are still being undertaken whenever new information is received pointing to the location of an American war dead.

The Korean war resulted in 36,923 fatalities. In previous overseas wars, the dead had been interred in battlefield cemeteries, at least until the cessation of hostilities. For the first time American dead were returned to the United States during hostilities, and this necessitated processing the remains through collection points in southern Korea and forwarding to Kokura, Japan where a Central Identification Unit (CIU) was established. The Kokura facility received and processed the 28,746 remains that were recovered of which 97.5 percent were identified. The 856 unknowns were interred in the National Cemetery of the Pacific. Another 8,177 were determined to be nonrecoverable at the time although since 1955 several remains have been recovered and identified, some as recently as 1976.

Introduction of American advisors in Vietnam required that mortuary support be provided. The U.S. Air Force Mortuary, Philippines, furnished all necessary mortuary service and support beginning in 1961 on a temporary duty basis. With expansion of the troop commitment and the resulting increase in casualties, a U.S. Air Force mortuary was established in 1963 at Tan Son Nhut Air Base near Saigon. On July 1, 1966 the U.S. Army assumed responsibility for this function in Vietnam, and in June 1967 a standby mortuary was established at Danang Air Base to accommodate the increased combat in the northern I Corps area. By war's end American forces suffered 57,553 fatalities of which 55,318 were recovered and all but 28 or $\frac{5}{100}$ of 1 percent were identified by the time American forces withdrew from Vietnam. A Central Identification Laboratory was established at Camp Samae San, Thailand (CILTHAI) in March 1973 to carry out residual tasks of recovering and identifying remains of American war dead. In May 1976 CILTHAI was redeployed from Thailand to Kapalama, Hawaii where it has since been redesignated Central Identification Laboratory Hawaii (CIL-HA).

The success in identifying remains has been phenomenal. Of the 28 unidentified remains transferred from Vietnam to Thailand, 11 were later identified as Asian Mongoloid and not American; 6 others have been positively identified, and 9 now have tentatively been identified but are awaiting final conclusive proof of identity, and only 2 are still unidentified except as to race—Caucasian.[51]

In addition to the remains associated with MIA's, approximately 30 remains of Asian Mongoloids are held by CIL–HA. They have been identified as Vietnamese but whether they were Viet Cong, North Vietnamese, or Republic of Vietnam soldiers is not known. The circumstances and location of their recovery is recorded, however, and the select committee has offered to return the remains to South Vietnam.[52] That offer has not been acknowledged by the DRV.

A specific question was posed to the Army Casualty Disposition Program Director, Mrs. William N. Annetti, concerning the incineration of bone fragments recovered from the wreckage of an Army helicopter and not identified before their destruction. Mr. Annetti replied that the fragments had not been associated with a specific incident at the time of receipt, and in accordance with Army regulations, fragments that cannot be identified are destroyed. With reference to the specific incident, the fragments were insufficient in size and were of the type that cannot lead to an identification.[53]

Teeth are the most indestructible parts of the anatomy and the best means of identification when adequate dental charts are available. Cancellous bones, the long bones containing marrow that are responsible for manufacturing blood within the human body, are excellent for determining blood type and reconstructing data on height, weight, anatomical structure, et cetera. Vertebrae can also lead to identification, since each vertebrae is different from all others and X-ray examination and comparison to known data on an individual can provide compelling evidence of identity. Even ribs can be important in evaluations, and occasionally lung X-rays, which are routinely taken in the military services, will provide pictures of ribs that may help in the identification process.

Identification of ashes is extremely difficult and, without some bone fragments in the ashes, may be impossible. The ashes themselves will not reveal blood type, but, if the right blood-producing bone fragments are present, blood type and structure may be determined within reasonable limits.[54]

Army mortuary personnel labored for years to develop an identification technique that has now been widely adopted. The technique, known as cranio-facial photographic superimposition, calls for photographing a recovered skull at the correct angle and scale and superimposing that photo over a picture, at the same angle and scale, of the individual's head. The first successful positive identification made in this manner was accomplished in 1972 of a soldier killed in 1968. The technique is now acceptable from a scientific viewpoint for establishing positive identification.[55]

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[51] Select committee informal discussion, August 17, 1976, with the Army Casualty Program Director, Mr. William Annetti.

[52] Letter of February 23, 1976, from Chairman Montgomery to DRV Premier Pham Van Dong.

[53] Also see chapter 9 of this report.

[54] Human ashes returned by the Chinese in December 1975 were reported to be that of two American flyers shot down over China. The ashes in one case contained sufficient fragments to substantiate the identification.

[55] Information on identification of bones and cranio-facial photographic superimposition furnished in select committee interview, August 18, 1976, by Mr. Annetti.

SUMMARY

The record of the Department of Defense and the military services with respect to the POW/MIA situation in Indochina is one of which the Congress and the American people can be proud. Responsible efforts were made by the Secretary of Defense as well as the squad leader on the spot to recover and account for American soldiers lost in the combat zone. That a lower percentage of servicemen went unrecovered in Indochina than in any war in recent American history attests to the success of these efforts.

The fact that American prisoners became a political issue of monumental proportions at the Paris negotiations signifies the importance with which the Department of Defense should have treated the issue earlier.

Although it is recognized that the Department must operate under policy guidelines, it is noted that the "go public" campaign was largely generated by the Department of Defense, beginning in 1969. Its relative success in improving the condition of American POW's calls into question earlier policies.

The Department of Defense exercised further responsible care for missing servicemen through the Joint Casualty Resolution Center and the U.S. delegation to the Four Party Joint Military Team. Both groups were frustrated in their efforts by the degenerating military situation in South Vietnam and by Vietnamese Communist's use of POW/MIA information for political gain.

The intelligence function of the Department was carried out in outstanding fashion by the Defense Intelligence Agency, which also acted as a focal point for the entire national intelligence community with respect to POW/MIA affairs.[56]

DIA supervised a truly mammoth effort of intelligence collection, evaluation, and dissemination, employing a wide range of sources, aerial reconnaissance, communications intelligence, captured enemy documents, and public and private specialized methods. The effort began early in the war and continues to the present day.

Operationally, the DOD responsibility toward military personnel in need of recovery was carried out through search and rescue efforts. Downed airmen, who constitute 81 percent of all missing servicemen, were specially trained and equipped to facilitate their rescue.[57] The skill and courage of SAR forces saved more than half of the airmen downed in Southeast Asia. In this regard, it is significant that the percentage of downed airmen who returned alive is no different in Laos than for all of Indochina due to the extremely effective SAR operations in Laos.

A disconcerting aspect of the war in Indochina is that not a single successful combat rescue of American prisoners was made in the long history of the war. This fact highlights the difficulty of successfully launching such an operation in any war, as well as the problem of delays in transmitting highly perishable POW intelligence into an operational requirement—a delay which was furthered by the lack of specially trained and readily available rescue forces. The committee notes that continued efforts to improve equipment and training are underway and trusts that they will continue to receive careful consideration.[58]

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[56] This responsibility included intelligence information on American civilians missing in Southeast Asia.

[57] A total of 1,137 of the 1,399 men listed as MIA, POW, or PFOD on March 31, 1976, were airmen.

The personnel aspect of the POW/MIA issue was a tremendous challenge. The record of those charged with the responsibility reflects favorably upon the services and DOD. The problem of declassifying information for the next of kin was particularly difficult. The "secret war" in Laos contributed to this problem, causing some families to mistrust the facts they did receive. A more concerted effort to declassify substantive information pertaining to missing servicemen could have been made. Pay and allowances for the missing members' next-of-kin were very adequate and expeditiously disbursed. Casualty assistance was generally excellent, but the services, in their correspondence with the next of kin, very frequently grossly exaggerated the possibility that the missing serviceman was alive. Promotion letters, encouragement to send POW packages to Hanoi, and 1-year case reviews were commonly worded as though the man was probably alive, even in the many cases where the evidence clearly showed this possibility was extremely remote.

The committee also noted that the Armed Services Graves Registration Office (ASGRO) is responsible for recovering remains worldwide from any war in which American forces were engaged. In 1975 remains of 5 airmen were recovered from the Zuyder Zee, where their aircraft crashed more than 30 years earlier. Search operations are even now underway in the Pacific islands to recover remains of American servicemen lost during World War II. These efforts underscore the fact that the search for remains and the interest in accounting for all of the missing goes on; it does not cease when the missing are eventually presumed to be dead.

Despite the shortcomings noted in this chapter, the record of the Department of Defense in Indochina is extremely good. Faced with unprecedented POW/MIA problems, the Department and the services exerted unparalleled effort to meet the challenge.

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[58] The U.S. Army has also activated two Ranger battalions of highly specialized and well-trained troops with one mission of rescuing Americans who may be held as prisoners overseas.

CHAPTER VIII.—STATUS

The select committee considers status as it relates to missing Americans to be important in three respects:

(1) The constitutional rights of the missing man himself;

(2) The rights and benefits accruing to his dependents or his estate; and

(3) The possibility that an accounting for missing Americans by formerly hostile powers might be influenced unfavorably by changes in status from missing to dead.

The committee carefully studied each of the three aforementioned aspects of status in the context of public law and its implementation by the Department of Defense and other Federal agencies. Also assessed was the impact of recent court decisions on the implementation of status reviews. Finally, the committee considered allegations that an accounting depends on continuing the MIA's in missing status, recognizing that if that viewpoint is valid, there is a persuasive argument in favor of freezing the status of those still classified MIA.

LEGISLATIVE BACKGROUND

It was necessary first to turn to the legislation that applies in the case of missing persons. Source law on missing persons is codified in various titles of the United States Code; specifically, military personnel are governed by titles 10 and 37. In the case of employees in or under an agency of the Federal Government, title 5 applies. Persons employed by a contractor with the United States are covered by the Defense Base Act, Title 42, and the Longshoremen-Navy Waters Act, Title 50. More than 98 percent of the missing are servicemen; therefore, unless otherwise noted, this chapter will deal with Title 37, United States Code.[1] In their important provisions, the related codes are essentially the same as title 37.

The early legislative history of wartime casualty administration as it applied to missing persons was reflected in the remarks of the Naval Affairs Committee:

> This bill, if enacted, would make suitable provision for the support of dependents of personnel of the Navy, Marine Corps, and Coast Guard, including the retired and reserve components of those services, and civilian employees of the Navy Department, who have been reported as missing, missing in action, interned in a neutral country, or captured by an enemy, and who are not presumed to be dead or to have deserted.
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> In general, the purposes of this bill are to provide authorization for the continued payment or credit in the accounts, of the pay and allowances of missing persons for 1 year fol-

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[1] The term "servicemen" is used throughout this report, since no "servicewomen" are missing. The only females in missing status are civilians.

> lowing the date of commencement of absence from their posts of duty or until such persons have been officially declared dead; the continued payment for the same period of the allotments for the support of dependents and for the payment of insurance premiums, and for regular monthly payments to the dependents of missing persons, in the same manner in which allotments are paid, in those instances in which the missing persons had neglected to provide for their dependents through the medium of allotments, such payments to be deducted from the pay of the missing persons in the same manner in which allotments are paid.
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> * * * * * * *
>
> The committee is aware that, no matter how carefully administered, enactment of the bill will undoubtedly involve some inequities. This will result from the fact that there will be some payments made to dependents subsequent to the date of death of an individual in the service, due to the fact that accurate and reliable information from the enemy or through other sources is necessarily slow and cumbersome in time of war. The committee feels however, that this risk is justified in view of the over-all good that such legislation will obviously accomplish.[2]

More than 2 years after passage of the initial legislation, the House Committee on Naval Affairs recommended certain amendments to the law dealing with pay, allotments, and administration pertaining to war casualties. The amendments provided that the Act could be cited as the "Missing Persons Act", and the House Report commented on the experience gained during hostilities to that point:

> NECESSITY OF LEGISLATION
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> The basic act was processed through the Naval Committees of the Congress. The departments have found it very effective and important in wartime casualty administration. The act was predicated upon prior and more or less normal war experience and as far as could be foreseen at the time was adequate in its provisions. It was amended by Public Law 848 (77th Cong.), approved December 24, 1942, those amendments being brought about largely by failure of an enemy to comply with international agreements in reporting deaths and captures, which necessitated greater latitude in the continuance of absentees in a missing status.
>
> There has now been more than 2 years of experience in the administration of the act. During that time there have been unusual developments in the extent and character of land, sea, and air operations; there have been unanticipated situations and circumstances surrounding the absences of personnel and pertaining to the fiscal entitlements of absent and deceased personnel and their dependents.[3]

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[2] House Committee on Naval Affairs Report No. 1680, January 26, 1942.

[3] House Committee on Naval Affairs, Report No. 1674, June 17, 1944.

The Naval Affairs Committee pointed out the need to fix more definitely the responsibilities of the War and Navy departments along with authorizations to meet those responsibilities by prompt and conclusive determinations of status.

In June 1944, Secretary of the Navy James Forrestal was asked by the Chairman of the House Committee on Naval Affairs to comment on a bill to amend the 1942 law on wartime casualty administration. The Secretary described the basic concept of the existing law as one of continuing pay and payment of allotments therefrom. He defined "missing" status as essentially one of uncertainty as to the whereabouts of the person concerned and as to whether he is dead or alive. Significantly, the Secretary commented on section 4 of the bill which stated:

> That, if the 12 months' absence prescribed in section 5 of the act has expired, a finding of death shall be made whenever information received, or a lapse of time without information shall be deemed to establish a reasonable presumption that any person in a missing or other status is no longer alive.

The phrase, "a lapse of time without information", clearly anticipated that many of the missing servicemen would disappear without a trace and would never be heard from again. This Missing Persons Act made allowances for that contingency. Those servicemen captured by the enemy, whether listed as POW or MIA, generally returned at war's end or were accounted for by fellow prisoners or the enemy. Many were identified during the course of hostilities by the capturing power. Others were identified by international organizations such as the Red Cross. Some were identified through intelligence sources to be alive as POW's.

The provisions for casualty administration codified in the Missing Persons Act were incorporated in the Selective Service Act of 1948, and today they are found in Title 37, United States Code. The authority and responsibility vested in heads of government agencies and departments for determining the status of missing persons has remained essentially unchanged.[4]

Secretarial review is provided for in section 555 of title 37, and because of it great importance, that section is quoted in its entirety as follows:

> § 555. Secretarial review
>
> (a) When a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—
>
> (1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

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[4] **Procedures for conducting case reviews were altered materially, however, by a Federal court decision handed down in February 1974, *McDonald* v. *McLucas*. See p. 179 of this report.**

> (2) make a finding of death.
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> (b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of—
>
> (1) ending the crediting of pay and allowances;
> (2) settlement of accounts; and
> (3) payment of death gratuities.
>
> That date is—
>
> (A) the day after the day on which the 12-month period in a missing status ends; or
>
> (B) if the missing status has been continued under subsection (a) of this section, the day determined by the Secretary concerned, or his designee.
>
> (c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled. Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 628.

It should be noted that the Congress specified a review, not a court hearing. A mandatory review is provided for within 1 year of the date a member enters missing status, at which time he may either be continued as missing or presumed dead. If that member is continued as missing, subsequent reviews are scheduled when warranted by receipt of information or other circumstances.

Section 556 of title 37 establishes secretarial authority to make determinations as to dependency, death or finding of death, date of death for administrative purposes, and whether information received concerning a member of a uniformed service is to be construed and acted on as official report of death. Subsection (b) deals specifically with presumption of death:

> (b) When the Secretary concerned receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

After World War II and the Korean conflict, military secretaries rendered presumptive findings of death in all unresolved missing cases within 1 year after the end of hostilities. Many findings were based on information provided by returnees, one of the most important evidentiary bases for resolving these cases. In other instances, the circumstances of loss coupled with the passage of time, during which no definitive information was received, formed the basis for presumptive findings of death. The "other circumstances" that triggered case reviews were the post-war prisoner exchanges and subsequent debriefings of returnees.

Clearly, presumptive findings of death have not been rendered capriciously or arbitrarily. More than 78,000 remains from World War II and 8,000 from Korea were never recovered; none of these fighting men since showed up alive. In the event a serviceman declared or presumed dead should later return alive, he would, upon his return, recover pay and allowances preserved for him by Title 37, United States Code.[5] In addition, military secretaries are authorized to waive recovery of sums erroneously paid in good faith to dependents.

STATUS DETERMINATION

As was pointed out earlier, approximately 1,400 Americans failed to return or otherwise be accounted for in the Indochina hostilities. In addressing the problems attendant with their loss, the select committee found it necessary to bring into focus how public law has been implemented beginning with an incident of loss and progressing through a presumption of death.

When a member enters missing status, it is incumbent on the cognizant military authorities to conduct a thorough investigation of the circumstances of loss while at the same time making every reasonable effort to rescue or recover him. In any event, it is imperative that all possible information be gathered concerning the incident of loss at the time it occurs, and that a continuing effort be made to gather additional data thereafter.

Testifying before the select committee on February 4, 1976, Dr. Roger E. Shields, Deputy Assistant Secretary for International Security Affairs, Department of Defense, described the manner in which an individual fighting man might initially be classified as missing-in-action.[6] When an individual enters missing status or efforts to rescue him have failed, field commanders initiate action necessary to make a determination of his status. Although the Department of Defense provides general guidance in this matter, procedures for the status determination at the time of the casualty differ between the services. Operational commanders are responsible for initiating the necessary investigations upon which that status determination will be based. As soon as it has been determined that an individual is in fact missing, his parent service notifies next-of-kin and initiates a casualty file which will be maintained on him as long as he remains in that status. All information relating to his status will be placed in the file. This information will include combat action reports describing the circumstances of loss, search-and-rescue efforts that have been conducted, testimony of eyewitnesses, reports of investigative boards, and any further intelligence or operational information that might apply to the specific individual.[7]

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[5] As practiced in the Vietnam war, any back pay and allowances would be computed as though the money had accrued in the Uniformed Services Savings Deposit Program (USSDP) at 10 percent interest per annum.

[6] Select Committee Hearings, part 3, pp. 3–4.

[7] For a discussion of the early difficulties associated with release of classified information, impact of the "secret war" in Laos, and use of uncorrelated data, see chapter VII of this report.

The majority of personnel missing in the Navy and Air Force are aviators. If conclusive evidence is available, the operational commander issues a death report shortly after an incident has been investigated. Otherwise the operational commander determines that the individual should be carried in a missing status.

Within the Army, a formal board of officers is convened to investigate the circumstances within 7 days after the initial report of loss. Based upon the evidence introduced, the board recommends an appropriate status for the missing individual subject to the approval of the convening authority. That approving authority is generally at the battalion level for ground combat forces, and at the squadron level for aviation organizations. Final determination of status in the Army, however, is accomplished at Headquarters, Department of the Army.

The Marine Corps assigns an informal one-officer investigation. That officer is charged with forwarding, to the Commandant of the Marine Corps, the results of his investigation within 15 days. The decision that an individual will be carried in a missing-in-action or prisoner-of-war status is never made below the level of Headquarters, United States Marine Corps.

Regardless of how the initial classification as MIA might have been arrived at, the eyewitnesses, where they existed, were the most important link in the chain of events. In ground combat situations, witnesses were often young and inexperienced enlisted personnel. Frequently, indigenous soldiers or conscripted local-force personnel provided the only first-hand account of the combat loss. In aerial combat missile or aircraft attacks coupled with jet speeds added to the confusion. In the end, what a witness saw or thought he saw and what the convening authority accepted as the probable sequence of events usually determined the classification of the lost member.

During hostilities in Indochina, commanding officers showed an understandable predilection for classifying personnel as MIA rather than KIA(BNR) whenever remains were not recovered. Considerable caution, often tinged with undue optimism, was evident in a large number of casualty classifications.[8]

CHANGES IN STATUS

Whether or not the initial classification was questionable, a POW or MIA has certain constitutional rights with respect to his status or any change to that status. His primary constitutional right is the right to life. He and his next-of-kin should have confidence that a change in status from POW or MIA to KIA(BNR) would be made only with good reason. The first occasion for a change in status generally occurs on the 1-year anniversary of the date of the incident of loss, unless conclusive evidence of death is received in the interim. This date marks the mandatory case review.

The basic Constitutional right to due process of an MIA or POW includes the right to a fair and judicious examination of all facts prior to any change in status. While the rights of dependent next-of-kin must also be considered, the rights of the POW or MIA are paramount.

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[8] See chapter IX "Accounting" for a more detailed explanation.

Upon receipt of valid, credible information concerning an individual that might lead to a change in status, it is incumbent upon the parent service to issue a change of status if it is so warranted. Short of returning alive, the best example of concrete evidence would be the return of remains positively identified as the missing person in question. Even during hostilities, return of remains constitutes prima facie evidence of the demise of the individual and, by law, the military secretary or agency head is compelled to conduct a case review and render a determination of death. Conversely, when an individual is determined to be alive in enemy hands after having been declared MIA or KIA(BNR), the military secretary must change the status to POW.[9]

During hostilities in Vietnam, the military secretaries conducted case reviews on the 1-year anniversary of the date a serviceman became missing. Occasionally, a determination or presumption of death finding resulted, but in general, these determinations were withheld until after hostilities in the hopes that returning prisoners of war would provide positive information on many of the missing. It was also expected that the enemy would comply with article 8(b) of the Paris Peace Agreement and furnish information of a factual nature to enable the Department of Defense to resolve many outstanding cases of our missing.

As in the aftermath of previous war, the Department of Defense began routinely conducting case reviews of the POW's and MIA's who failed to return from Indochina. Almost immediately, a class action suit was filed to block status changes on the grounds that the law was unconstitutional and was being capriciously and arbitrarily implemented. That suit had far reaching impact on the entire issue related to missing Americans.

CLASS ACTION SUIT

In July 1973, the *McDonald* v. *McLucas* complaint was filed in the U.S. District Court for the Southern District of New York. That suit was to test the constitutionality of sections 555 and 556 of Title 37, United States Code, and their implementation. The complaint was in the form of a class action seeking a declaratory judgment of unconstitutionality, an injunction prohibiting military secretaries from making any further declarations of death, and an order directing the payment of damages for prior determination. A temporary restraining order halted reviews. On August 6, 1973, the District Court, Judge Charles M. Metzner, held that the complaint raised issues of such substantial constitutional nature as to require the convening of a three-judge court. Judge Metzner then issued a second restraining order:

> This restraining order shall apply to all members of the Army, Navy, Marines and Air Force who were, on July 20, 1973, in a "missing status" as that term is defined in 37 U.S.C. ch. 10, to the extent only that such member was officially carried or determined to be in a missing status while in Indochina. Each such member is hereinafter referred to as an "MIA."
>
> So long as this order shall remain in force, defendants shall not, either personally or by their designees, make any official

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[9] Five U.S. Navy and three U.S. Marine Corps personnel were changed from KIA(BNR) to POW during hostilities in Indochina. All returned alive. A ninth POW, a Marine, also returned, but his status as POW was never detected until his return.

report of death or any finding of death with respect to any MIA, pursuant to 37 U.S.C. §§ 555 or 556, except that:

(1) Defendants may proceed under the Sections 555 and 556 of 37 U.S.C. as to any MIA if they receive from the primary next-of-kin a request in writing that they not delay action on the information in their possession.

(2) Defendants may continue or initiate any activity for the purpose of obtaining information about any MIA.

(3) Defendants may communicate any information so obtained now in their possession or hereafter acquired.

(4) Defendants may respond to any unsolicited inquiry from any family of any MIA not related to the allegations or merits of this action.

(5) Defendants may deliver the possessions or remains of any MIA to the primary next-of-kin.

So ordered.[10]

In denying the plaintiffs' motion to maintain the suit as a class action on behalf of all next-of-kin, the court noted that none of the plaintiffs were proper representatives of the group of military personnel previously declared dead under sections 555 and 556. With respect to the cases still active, the court opined that its judgment would apply to or benefit all next-of-kin of those still listed MIA or POW. In this sense, the court expected that DOD would comply with whatever the court adjudged.

The court concluded that the actions in making official reports of death and findings of death under sections 555 and 556 were constitutionally defective. In reaching its conclusion, the court turned to the principle that procedural due process is required in administrative proceedings when adjudications of fact are made which operate to deprive a person, such as the dependent next-of-kin, of a constitutionally protected interest. Since the plaintiffs received monthly benefits while their missing member was classified MIA, their property interest in a continuation of these benefits was sufficient to invoke the constitutional protection of the Fifth Amendment as to life, liberty, and property.

The court noted that the services did not give specific notice of reviews nor were next-of-kin permitted to attend or participate formally in the review process. This, the court said, violated their right to due process. The court did not prescribe the exact manner in which the military secretaries would have to proceed, but rather:

> We only hold that under minimum due process standards notice must be given of a status review and the affected parties afforded a reasonable opportunity to attend the review, with a lawyer if they choose, and to have reasonable access to the information upon which the reviewing board will act. Finally, they should be permitted to present any information which they consider relevant to the proceeding. Once that is done, the requirements of due process have been satisfied.[11]

The jurists acknowledged the emotional nature of the problem and recognized that adversary views existed between and among next-of-kin.

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[10] 371 Federal Supplement 837 (1973).

[11] U.S. District Court, Southern District of New York, 73 Cir. 3190.

> With the repatriation of American prisoners of war which followed the signing of the Paris Peace Accord on January 28, 1973, an emotional breach has occurred among the families of missing servicemen who did not return home. On the one hand, we find families like the plaintiffs who understandably still hope for the return of their loved ones, and who actively contest any change in a missing status finding. On the other hand, there are those who have accepted the apparent fate of death as to their relatives, and who desperately want the services to make immediate determinations of death so that emotionally and actually they might begin their lives anew.
>
> The anguish of each of these opposing groups has been intense and is reflected in communications to the court.[12]

The court concluded—

> Accordingly, Sections 555 and 556 of Title 37 of the United States Code are declared unconstitutional on their face and as applied insofar as they permit "official reports of death" and "findings of death" to be made without affording the next-of-kin notice and an opportunity to be heard, and the defendants are permanently enjoined from making such determinations except in conformance with this opinion.

Finally, in accordance with its Memorandum Opinion of February 13, 1974, the District Court—

> ORDERED that Plaintiffs' motion to maintain this suit as a class action on behalf of "all next-of-kin, both in their capacity as representatives of their respective MIA's and with respect to their individual interests" is denied; and it is
>
> DECLARED that Sections 555 and 556 of Title 37 of the United States Code are unconstitutional from the date of this order insofar as they permit "official reports of death" and "findings of death" to be made without affording notice and an opportunity to be heard; and it is accordingly
>
> ORDERED, ADJUDGED, AND DECREED that defendants are permanently enjoined from the date of this order from making "official reports of death" and "findings of death" under Sections 555 and 556 without first affording next-of-kin currently receiving governmental financial benefits which could be terminated by a status review with:
>
> (1) notice of the time and place of a hearing which affords a reasonable opportunity to attend the hearing,
>
> (2) an opportunity to attend the hearing,
>
> (3) a lawyer if desired,
>
> (4) reasonable access to the information upon which the status review will be based,
>
> (5) and the opportunity to present any information considered relevant to the status review, provided, that these rights need only be afforded when demanded after notice of time and place of a hearing which affords reasonable opportunity to attend the hearing has been given to those entitled to such notice.

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[12] *Ibid.* Also cited as a reason for denying class action status in *Velma L. Crone, et al.* v. *The United States*, No. 293–74, in the U.S. Court of Claims, decided July 9, 1976.

The three-judge court issued its Memorandum Opinion on February 13, 1974. The temporary restraining order was lifted and, after first promulgating instructions incorporating new procedures for holding case reviews, military secretaries resumed unsolicited case reviews. Pressure initiated by the National League of Families slowed the routine process of these reviews.

In November 1974, the U.S. Supreme Court affirmed the decree previously issued by the District Court in New York. Possibilities that a presidential task force on the POW/MIA's or a House select committee might be formed contributed to reluctance on the part of the Department of Defense to conduct routine case reviews. During the period of November 1974 to July 1975, most case reviews were held at the request of primary next-of-kin. When the select committee was formed on September 11, 1975, it was tacitly agreed by the Department of Defense that no unsolicited case reviews would be conducted during the 1-year tenure of the committee.

The District Court ruling had apparently unforeseen results. If the court's decision was made to protect constitutional rights of the missing serviceman, it failed to do so. Dependent next-of-kin having a direct and immediate financial interest in the status of the missing member were accorded the right to be present with counsel. This vested interest does not necessarily assure that next-of-kin are as concerned with the constitutional rights of the missing person as they are with their own rights. Conversely, those primary next-of-kin who are not dependent on the missing member were not accorded the right to be present with counsel.

This inequity was further exacerbated when the Department of Defense informally agreed to a moratorium on unsolicited case reviews during the life of the select committee. A strange anomaly was created. Prior to the *McDonald* v. *McLucas* decision, the status of an individual missing member was determined by the military secretary or his designee based upon evidence, or lack of evidence over a protracted period of time, without regard to the desires of the next-of-kin. With the suspension of normal administrative procedures, the missing member's status now depended on the desires of his dependent next-of-kin.

EFFECT ON NEXT OF KIN

There is growing evidence that many MIA wives would welcome the resumption of unrequested case reviews. From letters and personal contact with these wives, one gains a sense of the emotional and psychological strains the current suspension imposes.

Many MIA wives have expressed incredulity that the Department of Defense has failed to proceed, as it has after past wars, to review cases and render presumptive findings of death where appropriate. They point out that responsible officials have stated publicly that there is no evidence to support a belief that any Americans are still held alive in Indochina. They decry the aberration that now exists wherein the only way a wife can free herself of her limbo status—neither wife nor widow—is to initiate a request for a case review. Yet, to initiate such a request usually affronts the parents-in-law and sometimes the children as well. For MIA wives to request a case review that would most probably eventuate in a presumptive finding of death is tantamount to requesting confirmation of death. Many MIA wives state that they fear their children and in-laws will accuse them of "killing" their father or son. They would, however, accept such a finding by the military secretary if it did not have to be requested.

Although the basic rationale may differ significantly, most wives agree that they should not be placed in a position of having to initiate requests for case reviews. It is significant that 75 percent of the case reviews conducted through September 30, 1976 were initiated by the primary next-of-kin.[13]

There have been several efforts by various groups to freeze all case reviews until an accounting by Indochinese Governments is assured. However, those efforts are not endorsed by all segments of the POW/MIA community. It is important that articulate spokesmen for an alternative viewpoint be heard.

Testifying before a Committee of the House of Representatives in 1974, Maerose Evans stated her position clearly and unequivocally. Mrs. Evans had been one of the founders of the National League of Families and one of its most active members until 1973. Her husband, Commander James J. Evans, did not return from Vietnam. She stated:

> I strongly oppose any bill that would prohibit the military services from making changes in status, or to have some outside source rule on the determination of the cases. The overwhelming majority of men who are missing in action were professional military men or volunteers. They knew very well what they were doing. They chose this life, swearing allegiance to this country and their individual service; each one having faith that his comrades in arms would do the utmost for his family, would understand and weigh all the various possibilities in any crash, shootdown, accident, explosion, firefight—whatever.
>
> Military men have firsthand knowledge because they have been there themselves. Every serviceman knows he has the potential of being killed in action, becoming a prisoner of war, or missing in action somewhere, someday.
>
> You cannot have some outside observer know what the probabilities of survival in the jungle would be, or speculate on the chances of getting out of an aircraft that has been hit by antiaircraft fire if you have not been there. The military is a profession. I would not expect a pilot to tell a surgeon how to perform an operation or vice versa.
>
> * * * * * * *
>
> The only reasonable way to determine status is for the service involved to review all the known facts and make a logical premise as to whether the man can be assumed alive or dead.
>
> Due to the very nature of the war, there are many missing men on whom we shall never have any evidence. A man who is

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[13] No reviews were initiated by next-of-kin from 1961 until March 1973. From April 1, 1973 through September 30, 1976 599 cases were reviewed and status changed, of which 448 were initiated by next-of-kin.

[14] Footnote deleted.

dead has no interest in a big debate over his condition. Ultimately, you are proposing to keep a man missing in action forever; that is inhuman. If Congressmen Boggs and Begich had been serving in Southeast Asia, they would still be missing in action.

I have some comments regarding Mr. Dermot G. Foley's statement to the committee dated October 10. Mr. Foley has represented five MIA plaintiffs in a suit against the Government and is now representing seven killed in action plaintiffs, according to the newspapers.

That is not a majority of the families. If Mr. Foley is, in fact, the legal counsel for the National League of Families, it must be pointed out that not all families belong to the National League. Many have never been members and many have dropped their membership or resigned. I recently did because the current policies and actions of the League dishonor and degrade my husband and all men who have served their country. The U.S. Government is not our enemy, North Vietnam was.

* * * * * * *

We are entitled to put savings in a U.S. savings deposit program at 10 percent interest. No one else in the military enjoys that privilege. Single men have all that money held for them to be given to whoever they have designated.

Your committee should review some of the accounts and compare the financial status of MIA's with men who were declared KIA immediately or with the veterans. I was interested enough to testify at this hearing and I paid my own way here. Surely if one was interested they could find a way to attend. Dependent primary next-of-kin are entitled to fly "space available" on military planes and stay in military lodging such as visiting officers quarters or exchange motels.

If the primary next-of-kin is a wife and she would like the secondary next-of-kin, the parents, to attend, they may. In any event, the parents always have the opportunity to review the files. Scott Albright, who was the executive director of the National League until August 1, told me he was present at a Navy hearing that included the mother, sister, three lawyers, and Scott. I do not call that exclusionary.

The MIA's due process rights are not ignored. This is not a criminal hearing but a gathering of facts to determine if a man can be reasonably assured to be alive or dead.

* * * * * * *

If you are concerned about dependents of MIA's declared dead experiencing financial hardship then I suggest we recall the men who were immediately declared killed in action in Vietnam, more than 45,000 of them.

For however long a man was in a missing-in-action status, his family received more benefits than any killed-in-action family. In my husband's squadron of probably 16 pilots from March 31, 1965 to June 1966—they were home 6 months of that time—four men were killed in action, including the

> skipper. Are we to believe that the families of men killed in action or those missing and killed in other wars cared any less for their men? My husband did not have a cash redemption price.
>
> My husband would never have wanted to remain missing in action forever. He thought there was nothing better than flying off a carrier. He was well aware of the risks and he chose to do it. He was also sure the Navy would do everything possible to find out about him and they did. We, the families, must also use a little common sense and face reality. I do not have a husband: my children do not have a father. He has been gone 10 years. I shall probably never know more than I know now.
>
> * * * * * * *
>
> I have been actively working on this problem for 9 years. We had family meetings in northern California in 1966. I was one of the original area coordinators under Mrs. James B. Stockdale; and California State coordinator when the national league was formed. I was elected western regional coordinator in March 1971.
>
> The area comprised the States of Washington, Oregon, California, Arizona, Nevada, Idaho, Utah, Montana, Colorado, Wyoming, Alaska, Hawaii, and for a time, New Mexico.
>
> The western region comprised the largest number of POW/MIA families in the United States. I was asked to serve on the board of the national league two different times when someone had resigned.
>
> I have met with Dr. Kissinger, former Secretary of State Rogers, former Secretary of Defense Laird, Ambassador Yost, Ambassador Bush, Ambassador Sullivan, Senators, Congressmen, foreign consuls, scholars, anyone and everyone who could have helped, including some charlatans and crackpots. My son and I traveled to Laos in August 1972.
>
> It is time to let the services proceed with determinations. The families have endured enough. The men have served their country honorably. I would hope that no primary next of kin ever has to ask for a review as I did. That was the cruelest blow of all.

Maerose Evans' position drew support from other quarters. In a poignant letter to Chairman Montgomery, Mrs. Robert M. Brown, wife of a missing Air Force lieutenant colonel, made these points:

> You have already heard testimony from Mrs. Iris Powers, and support for this testimony from Col. Scott Albright, concerning the halt in status change by the Service Secretaries. I wish to add my agreement to what she said. For the sake of my children, and in order to put this unhappy chapter behind me, I wish a status review *would* be held on my husband, however, I will not *request* one at this time because, in effect, I would be asking that he be declared dead—something I feel would have psychological implications for my children and my husband's parents. Furthermore, I resent being put in that position by the Military Services—it is *their* job to determine, on *their* knowledge, the status of my husband.

> I realize my concerns are contrary to the recent policies of the National League of Families, but I feel they reflect the feelings of many of the wives of the MIA's, I was Nevada coordinator for the League for one and one-half years, and have talked to several wives who agree with my feelings. I feel the National League of Families is run largely by the *parents* of MIA's and that it is *their* self-interest that is served by continual opposition to status changes. I feel that as part of preventing the reoccurrence of the tragedy that many of us have lived through, it is necessary for the Congress to fashion legislation that will incorporate the following:
>
> A. Timely status changes when appropriate. Reinstatement of the yearly review and continuation of a man as MIA only when there is a reasonable assumption that he may be alive.
>
> B. Properly held review-of-status proceedings, as mandated by the Supreme Court, including notification, access to information and right to appeal by the next of kin.
>
> I wish to make it clear that I have no quarrel with the League of Families goal of accounting of the MIA's, I support this goal whole-heartedly and have actively worked for this despite a full time job and three children! However, I feel the issue of "no status changes" should long ago have been divorced from the accounting efforts. The one, does not in my mind, depend on the other. I believe our government is concerned with an accounting regardless of the number still officially listed on "missing in action".

Two MIA wives, as insistent and as patriotic as any in their demands for an accounting, and both once active in the National League of Families, spoke poignantly about the psychological burden imposed on next-of-kin by the necessity to request a case review. In public testimony before the select committee on June 25, 1976, Mrs. Linda Ferguson, wife of Air Force Captain Douglas David Ferguson, described her husband's loss and the psychological odyssey that led her finally to request a case review. "I resent having to be responsible for this official decision." She commented further:

> I think a more important question is the one that goes beyond financial concerns: "Should a primary next of kin be placed in the position where she has to request the review, particularly when the primary next of kin is a wife whose daily life is more directly affected by a MIA status than that of a parent?"
>
> My answer to that question is "No." [15]

At the same hearing, Mrs. Emma Hagerman, whose husband, Air Force Colonel Robert Warren Hagerman, was lost over North Vietnam in 1967, described some of the legal difficulties of an MIA wife. One of the founders and charter members of the National League of Families and a regional coordinator of MIA activities, Mrs. Hagerman refused to request a case review.

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[15] Select Committee Hearings, part 5.

> Personally, I find it totally repugnant to me to ask for a status change. I do not feel that I could end my marriage in that manner any more than I could end this 33-year marriage with a divorce. I would never contest a change of status, but I would never ask for a status change if this thing dragged on another 100 years.[16]

Both MIA wives described difficulties with relatives that often resulted from wives' requests for a case review.[17]

Appearing before the select committee on May 26, 1976, Karen Martin, wife of MIA Air Force Captain Douglas Martin, described some of the results of this procedure.

> I would like you to consider what the results are of the attitudes of the two wives in this case when the men were in the very same plane. Just because of the personal whims and wishes of the wives, one man is listed as missing in action. His companion has been declared dead, and such a result is completely absurd, because one had just as much chance to live or die as the other. They were in the same plane. Yet the fate of each was decided by the uninformed emotions of the wives.[18]

In lengthy discussions with the committee staff afterwards, Mrs. Martin made her point even more forcefully. She clearly wants to assure that the Indochinese render an accounting for her husband and the other missing Americans. Largely because of what appeared to be bureaucratic bungling and deliberate obfuscation, Mrs. Martin strongly supports major changes in the case review process, but she, like most other wives, wants the government to assume its responsibility, rather than placing the terrible burden on next of kin.[19]

On October 21, 1976, an MIA wife telephoned the committee staff director to inform him that she had just received notice of her husband's change in status from MIA to presumed dead. She described the experience in these terms:

> I cried for two weeks after I signed the papers. But now I feel tremendous. It's a great relief. The pity is, *I* had to do it.[20]

Status and Accounting

In assessing changes in status, the committee was directly concerned with any possible relationship between status and an accounting. That concern is also expressed by the National League of Families and others who contend that changing the status of MIA's to KIA will attenuate chances for an accounting. For that reason, the League of Families has lobbied to freeze case reviews, even to the extent of prohibiting reviews requested by primary next of kin.

This viewpoint is important and must be addressed before any conclusions can be drawn regarding this painful issue.

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[16] *Ibid.*

[17] *Ibid.*

[18] Select Committee Hearings, part 4, p. 96. See also pp. 95, 99, and 102.

[19] Even active members of the National League of Families apparently concur that wives should not be forced to request case reviews. For example, three MIA wives voiced much opposition to having the Department of Defense conduct case reviews; they also wanted case reviews temporarily halted. Yet none suggested that the primary next-of-kin be responsible for initiating the case review. See Select Committee Hearings, part 4, pp. 109–48.

[20] Memorandum of telephone conversation in select committee files.

One of the most prominent reasons for resisting status changes is a conversation between Stephen R. Frank, former Director of Operations for Voices in Vital America (VIVA) and Colonel Nguyen Do, Chief of the Democratic Republic of Vietnam Delegation to the Four Party Joint Military Team in Saigon. The two met on about July 23, 1973, at Tan Son Nhut Air Force Base. Colonel Do was asked about some of the 1,300 American MIA's, and Mr. Frank reported on that meeting in an affidavit.

> * * * During said meeting on July 23, 1973, Colonel Do was asked as to certain individuals comprising the 1,300+ list. He stated, "We do not know why you are here because your government considers all these men dead." At said meeting, he impressed upon the undersigned the fact that his government felt it was inappropriate for any Americans to discuss with the North Vietnamese anything dealing with Americans who had already been classified as dead by the United States of America.[21]

Colonel Do's remarks notwithstanding, it is evident that official Vietnamese policy refutes the statement reportedly made to Mr. Frank. First, it is noted that VIVA is a private organization and that Stephen Frank had no official standing insofar as the DRV delegation was concerned. Further, the wartime activities of VIVA, which included selling POW/MIA bracelets and publicizing the POW/MIA issue, would hardly have won the cordiality or cooperation of the Communist Vietnamese.

It is significant that on July 26, 1973, the DRV and PRG delegates to the FPJMT agreed to the U.S. proposal that an operating schedule be drafted for the month of August to include repatriation of remains of American POW's who had died in captivity in both North and South Vietnam and the immediate exchange of information on MIA's.[22] Unfortunately, the Communists tied implementation of that proposal to agreement on modalities and general principles of the draft "Minute of Agreement on Implementation of Article 8(b)", and the latter was never agreed to. The key point to be made, however, is that the DRV negotiators did not differentiate in official discussions between Americans still classified as MIA and those known or presumed dead. Even more important, in March 1974, the DRV returned the remains of 23 Americans who had died in captivity in the North. In December 1975, the DRV released the remains of three additional flyers to the select committee, two of whom had already been presumed dead. Later, the remains of two Marines killed in Saigon in April 1975 were released. On September 6, 1976, the Socialist Republic of Vietnam announced the names of 12 pilots killed during aerial attacks on North Vietnam 1965–68, six of whom have since been declared or presumed dead.

The argument that the Vietnamese will not account for any of the missing who are presumed dead is further eroded by the statements of the leaders of Vietnam, Laos, and Cambodia. These officials have stated publicly that they hold no live POW's, that all were returned in the exchanges in 1973. Clearly, any information they possess about missing individuals relates to American fighting men they consider to have died as a result of hostilities in Indochina. The same is true of the remains about which they have knowledge. In essence, the Communists consider, at least publicly, that each and every one of the more than 2,500 American POW's, MIA's, and KIA (BNR)'s is dead, but the Vietnamese have also stated that they are ready fully to comply with article 8(b) of the Paris Agreement when the United States complies with article 21. An accounting, then, depends not on the administrative classification of the missing as the U.S. Government views it, but rather on negotiations that will define the terms and cost involved in "healing the wounds of war".

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[21] Full text of this affidavit is in Select Committee Hearings, part 5.

The whole purpose of the FPJMT was to implement repatriation of remains of the dead and to exchange information on MIA's. The U.S. Government did not consider all of the MIA's dead, nor has there ever been any policy to ask for an accounting only for those still actively classified as POW or MIA; rather, an accounting embraces all Americans listed as POW, MIA, and KIA(BNR).

[22] U.S. Delegation, Four Party Joint Military Team, Negotiating Chronology, p. 32.

Another argument to support a freeze in status changes is the claim that we are on the verge of an accounting now, and that it would be premature to reclassify any of the remaining MIA's until that accounting has been achieved.

This argument is far from cogent. The average MIA has been missing for about 9 years, and as we concluded earlier in this report, there is an evidentiary basis in many individual cases for changing status. Further an accounting has been supposedly imminent in theory since February 1973. The mechanism for its implementation existed in the FPJMT until the end of April 1975, but a vacuum existed in that regard from April 1975 until March 1976 when, at the behest of the select committee, the Secretary of State began a series of correspondence with the Foreign Minister of Vietnam to reopen talks that might lead to an accounting—among other things.

To claim that we are on the verge of an accounting, however, would be the height of optimism, where optimism has been dashed all too many times. A long, hard road lies ahead. Negotiating with the Vietnamese has never been easy. It is probable that a great deal of time will be required before the accounting issue is resolved with any satisfaction whatever. For example, the French enjoy direct relationships with the Vietnamese, but in nearly a quarter of a century since the French departed Vietnam, they are no nearer to an accounting for their missing than they were in 1954. Indeed, it does not appear that the French expect to receive information on their missing; rather, they are concerned with recovering remains of their dead from the regular cemeteries which they themselves once maintained in Vietnam. The record of American negotiations and prior agreements in this regard, however, suggest that an accounting for some American dead and missing is possible and can ultimately be realized through further negotiations.

Using the experience of the Joint Economic Commission which functioned in Paris from February through July 1973, however, it is apparent that great difficulties lie ahead. That commission articulated the cost in dollars ($3.25 billion), and in equipment and supplies, that would be needed in reconstructing North Vietnam, but the document expressing that program was never agreed to.[23] Since the demise of the JEC, the situation in Indochina has changed materially. The DRV violated the Peace Agreement on numerous occasions and the military takeover of the South made its future applicability questionable. Seizure of South Vietnam enriched the North to an incalculable degree in terms of the American-furnished supplies and equipment which the Communist forces "liberated" from their southern counterparts. The weapons, ammunition, communications equipment, tracked and wheeled vehicles, aircraft, and naval vessles thus acquired by the DRV had a market value of several billion dollars.[24] No doubt the Vietnamese will retain some of the captured items for their own use and will probably dispose of considerable quantities on the open market to obtain much needed cash. The total value appears to exceed by far any amount of reconstruction assistance that might once have been contemplated by the U.S. Government. That consideration will no doubt figure prominently in any future negotiations and could slow the negotiating process.

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[23] See appendix. These negotiations are treated in detail in chapter 6 of this Report.

Another question is frequently asked by those who resist any changes in status: "What is to be gained by changing the status of the MIA's?". Because of the humanitarian nature of the issue, it is difficult to address that question directly. Surely there is no gain merely in presuming the MIA's are all dead. To do so would violate the constitutional rights of the men concerned as well as the rights of their next-of-kin. On the other hand, there is no logic in retaining in MIA status those cases where there is persuasive evidence that the individual is dead. Nor can a viable case be made in favor of continuing to disburse tax-free emoluments to dependents of those known to be dead or where the probability of death is so great that any reasonable person would not fault an official presumption of death. Indeed, continued payment of full pay and allowances in these cases is grossly inequitable to the survivors of the 57,000 Americans killed in action who receive the survivor benefits specified by the Congress.

There is perhaps one salient advantage, in a diplomatic sense, for case reviews to be reinstituted by the Department of Defense. A significant number of cases were found by the select committee to contain solid evidence that the individual was dead. In many of these cases, it is equally clear that the Vietnamese, Lao, or Cambodians had absolutely no opportunity to gain information on the men or the incidents of loss. It can be assumed that review boards would recommend and the military secretaries approve presumptive findings of death in these cases. Objectively, such findings would be entirely appropriate. The effect would be to reduce the number of cases still administratively classified as MIA or POW, and collaterally to reduce pressures on the administration to rush into acceding to Vietnamese demands for reconstruction aid in exchange for an accounting. In short, the unique bargaining power now enjoyed by the Vietnamese would be withdrawn. The result would be place negotiations on a more realistic plane from the U.S. Government standpoint. This is an important point, particularly when viewed in light of reasonable expectations of what even an optimum accounting might be comprised. The in-depth analysis of an accounting presented in chapter 9 of this report is an effort to reduce the unrealistic expectations that have been permitted to flourish with respect to an accounting and project a more balanced and logical goal in real terms. It is in this context that the committee addressed the question, "What is to be gained by status changes?" The committee does not suggest that blanket presumptions of death be considered—quite the contrary. The Constitutional rights of the people involved demand a case-by-case or incident-by-incident review of the circumstances of loss.

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[24] A recently declassified report by the Department of Defense estimated the value at $5 billion. A substantial amount of the equipment may not be serviceable. See the article in the Baltimore Sun, November 10, 1976.

The argument that accountability and administrative status still remain inseparable is based, in part, on the older notion of accountability, which is now outdated in light of the Committee's investigations.

A supporting aspect of the argument is this:

> If the U.S. considers the MIA's to be dead and reclassifies them, the Indochinese governments will also "write off" our MIA's and feel no need to give an accounting for them.

This argument is faulty in two respects. First, it assumes that reclassifying the MIA's amounts to an abandonment of an accounting. Such is not the case. Second, it assumes that American administrative categories (MIA, POW, or KIA) constitute a form of pressure on the Vietnamese. There is no evidence to support this assumption.

An accounting for the MIA's is now being discussed in the talks between American and Vietnamese officials. These talks on MIA matters are the new central focus of American MIA affairs. Gaining an accounting is a responsibility that rests with the Department of State. Members of the select committee are fully agreed that direct, continuing, Congressional interest is required to oversee Department of State handling of the POW/MIA negotiations to assure adequate priority is accorded this important matter and to keep the Congress fully informed of developments.

It is occasionally alleged that the resumption of case reviews and any subsequent status changes would be "unwarranted" at this time. The charge that all status changes are "unwarranted" actually begs the question. Only the review of an individual case by a properly constituted review board can determine whether a status change is warranted or unwarranted. In fact, that is the precise purpose of convening a review board.

FINANCIAL IMPACT

The committee felt obliged to assess the financial impact of status changes on dependents, recognizing that this is a sensitive and greatly misunderstood topic. The amount and kinds of financial disbursements that can be made to next-of-kin are specified by the Congress in public law. In this connection, it should be pointed out that most parents do not regularly receive any benefits from the accounts of POW/MIA sons. Only those parents previously claimed as dependents and legally qualified in that category can receive benefits. In the case of unmarried POW's/MIA's, the parents are usually the primary next-of-kin and beneficiaries of a probated estate unless otherwise specified by the missing member.[25] In this respect, some parents ultimately will receive large lump-sum payments.[26]

Wives and minor children comprise the vast majority of the dependents currently receiving benefits. It bears repeating to state that the families do not choose the status of POW, MIA, or KIA (BNR). A missing member's status is determined by his parent service. In this sense, the families are the victims, not the determinants, of status.

To measure the financial impact of possible future status changes, the committee requested the Department of Defense to provide a statistical summary of dependent categories as of April 30, 1976.

TABLE 1

PRIMARY NEXT OF KIN

(Current Active Status POW/MIA on April 30, 1976)

Category	Branch of Service				Total for Category, All Branches, of Service
	Army	Navy	Air Force	Marine Corps	
(a) Dependent wives receiving benefits, without dependent children	15	46	40	2	103
(b) Dependent wives receiving benefits, with dependent children	54	15	249	19	337
(c) No wife, but other dependent person receiving benefits	8	10	29	3	50
(d) Persons, not dependent, receiving benefits	116	0	37	4	157
(e) Cases of no benefits being paid	43	10	81	28	162
Totals	236	81	436	56	809

The foregoing chart shows that a dependency exists in slightly more than half of the MIA cases still active. Of the wives, three out of four have dependent children. A change in status would reduce their monthly income, but the combined benefits of Dependency and Indemnity Compensation (DIC) and Social Security Survivor Benefits would provide substantial support while the children are under 18 years of age, and then would provide direct payments to the children, if in approved education institutions, in amounts adequate to defray expenses from 18 to 23 years of age. The lump-sum settlement paid to the widow when a status change is made would vary with the specifics of each case, but frequently, that settlement runs from $60,000 to $100,000, exclusive of commercial insurance. In every case where marital dependency exists, the wife would continue to receive DIC payments as long as she remains unmarried.

Special Problems

The select committee uncovered certain anomalies in the status of a few individuals. No effort was made to review every possible case that might have had unique overtones, but it is necessary to describe some cases that demand the attention of military authorities and of the

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[25] Last Will and Testament, Emergency Data Form DD 93, designated beneficiary on commercial life insurance, etc; also provide a basis for disbursing estates when status changes are rendered.

[26] As this report is written, one such estate now amounts to over $260,000. Four additional estates are over $200,000. More than 100 exceed $100,000. The USSDP contains over $40 million which will be paid to next of kin when status changes are rendered, exclusive of several millions in Serviceman's Group Life Insurance, unused leave pay and allowances, etc.

Congress if the inequities herein are to be resolved and future occurrences avoided.

In the case of Vietnam, two known defectors have been identified. One, an Army enlisted man, was dropped from the roles as a deserter at the time of his defection. His pay and allowances stopped at the time he was dropped from the roles in deserter status. In a second case, a Marine enlisted man was captured by enemy forces in 1965. Evidence shows that in 1967, when he was offered his release, he elected to remain with the Viet Cong. The defector was observed by American captives and was seen to bear arms with the enemy, and to participate in interrogation of other American prisoners of war. The records show that he was promoted to lieutenant in the Viet Cong forces. Numerous reports from long-range reconnaissance patrols during the period of 1968–69 claimed that a Caucasian of his general description was killed in fire fights with Viet Cong forces, but a more recent report indicates that he could have been alive in South Vietnam as late as 1974.[27] Although his rank as private-first-class has been frozen, should he return, he would be entitled to all back pay and allowances with interest compounded at 10 percent annually.

The Congress, recognizing the anomaly in such situations had, in August 1954, modified Title 50, United States Code, to prevent the additional payment to a prisoner of war for any inhumane treatment while a prisoner if misconduct was involved, such as would be the case for the turncoats. Public Law 91–289 of June 24, 1970, applied the same provisions to prisoners of war in Vietnam. Nothing in the statutes on military pay and allowances or any other law, however, precludes payment of regular pay and allowances to a prisoner of war, and in a Supreme Court case, *Bell* v. *the United States*, the court determined that to withhold the regular entitlements, the conduct of a missing member must be so gross that he does not deserve pay.

Another case involves an officer known to have been captured and held as a POW by the Viet Cong for 3 years. The PRG reported that he died in captivity in 1967, a fact corroborated by returning POW's. The officer's performance of duty while a captive was exemplary, resulting in posthumous recommendation of one of the Nation's highest awards. His parent service delayed holding a case review, expecting that his remains, together with the remains of 39 other Americans known to have died in Viet Cong hands, would be returned by the PRG in 1973. To date, none of the remains has been recovered. Despite the evidence received in 1973 that he is deceased, the officer is still classified as a POW.

The District Court injunction followed by the DOD-agreed moratorium on unsolicited case reviews have prevented his service from proceeding with a review in this case.

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[27] See testimony of Lt. Gen. Vernon A. Walters, Select Committee Hearings, part 3, p. 118.

CHAPTER IX.—AN ACCOUNTING

"We demand an accounting!" That phrase is most familiar to those immersed in the issue of Americans missing in Southeast Asia, and it raises these questions:

—What is an accounting?

—How will it come?

—Will an accounting be complete and satisfactory?

—How do we secure an accounting from people with whom ~~we~~ were engaged in military conflict for a decade and who are now engrossed with the socio-economic restructuring of their newly won country?

These questions and their answers are fundamental to the central theme of an accounting.

The United States now faces a situation entirely different from its previous experience. Past wars resulted in victory, at least of a sort, and Americans had access to the records, military units, and countryside of former enemies. It was a relatively simple matter to search for missing men or information about them. A few months after war's end, the missing were accounted for with reasonable certainty or they could be presumed dead with confidence they were deceased and additional search would be futile.

Our fighting in Indochina earned us different results. We face a situation in which we ask an accounting from former enemies whom we did not defeat and who perceive that the United States has certain obligations to reconstruct devastated lands. Obtaining any kind of an accounting will be inordinately difficult. Furthermore, when one assesses the capability of Indochinese governments to provide the information and remains we seek, the problem becomes even more complicated.

The select committee's investigation had as its priority task determination of whether any Americans might still be alive and held against their will somewhere in Indochina, or elsewhere, as a result of the war. Collaterally, however, the committee examined the question of an accounting and return of remains of known dead. The committee's early activities focused on establishing the contacts and working relationships necessary to facilitate governmental discussions leading to an accounting by the Vietnamese, Laotians, and Cambodians. Before considering how such an accounting might be obtained, it is important to gain an appreciation of what might be expected.

THE MEASURE OF THE PROBLEM

Combat operations in Indochina cost the United States more than 46,000 killed in action and another 10,000 who died in nonhostile circumstances. These have all been accounted for by America's own reckoning. The remains have been recovered and are interred at home. The cases are closed.

More than 2,500 other Americans failed to return from Indochina, however, and they have not yet been accounted for satisfactorily. Included were nearly 1,400 servicemen who were listed as POW or MIA and more than 1,100 listed as KIA whose bodies were not recovered. An additional 41 American civilians were detained, missing, or killed and not recovered in Indochina, and we seek an accounting for all of these men and women.

CIVILIAN LOSSES

As early as 1962, American civilians suffered capture and, as it appears in retrospect, death at the hands of the Viet Cong insurgent forces in South Vietnam. Some 26 civilians are currently listed as missing or unaccounted for; another 16 are presumed to have died or were declared dead based on the circumstances of their loss while serving in Vietnam, Laos, or Cambodia. Some of the civilians lost are missionaries who were serving the people of those beleagured lands. Many were journalists covering the combat operations during which they disappeared. None of these deserved his fate. They were not, as some have speculated, agents of the Central Intelligence Agency, directly, or indirectly, save perhaps for those few cases of civilian personnel associated with Air America, the contract airline serving the Central Intelligence Agency which in turn supported forces of the Royal Lao Government at the request of that government. These men did not generally serve in active combat roles; rather they provided logistic and medical evacuation services to the Royal Lao forces.

It is important to note that 16 foreign nationals, mainly journalists, are also listed by their parent governments as missing in Indochina. These journalists were employed in news-gathering roles as were their American contemporaries, and to date the Indochinese officials have provided no information on their whereabouts or fate to the concerned governments any more than they have to the United States Government. Even the church-oriented groups whose personnel worked selflessly and provided care for Communist forces as readily as they did for local forces have been unable to get an accounting for their missing people.

MILITARY LOSSES

About 44 percent of the fighting men not accounted for were lost in South Vietnam, 30 percent in North Vietnam, and 22 percent in Laos. The remainder disappeared in Cambodia, at sea, or near the coast of China. Significantly, 81 percent of these men were aviators, a factor which figures importantly in the probability of accounting for their loss.

It is also important to remember that due to superlative search and rescue efforts the number of servicemen yet unaccounted for in Indochina is remarkably small compared to previous historical experiences.[1] Of equal importance is the fact that American recordkeeping with respect to our missing men has been better organized and managed than in any previous war. The combination of these two factors suggests that Federal agencies will be able to assess the quality and quantity of any accounting rendered by formerly hostile forces and to judge whether or not such an accounting is acceptable. It must be pointed out that what is acceptable in general may not necessarily be acceptable to many of the next of kin.

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[1] See Chapter VII.

The total number of missing American servicemen and civilians for whom the Government of the United States demands an accounting is reflected in Table 1 below:

TABLE 1[1]

AMERICANS MISSING OR THOSE WHO HAVE BEEN DECLARED DEAD—BODIES NOT RECOVERED

Country	Servicemen[2]		Civilians	
	MIA/POW/PFOD	KIA (BNR)	Missing	Presumed dead
North Vietnam	475	294	0	0
South Vietnam	541	566	13	12
Laos	344	206	5	4
Cambodia	28	47	7	0
China	4	0	0	0
Sub-totals	1, 392	1, 113	25	16
Grand totals	2, 505		41	

[1] Based on Department of State official record, "U.S. Civilians Missing, Killed, or Unaccounted For in Southeast Asia," Nov. 1976; and Department of Defense official record "Table 1051, Number of Casualties Incurred by U.S. Military Personnel in Connection with the Conflict in Vietnam," Nov. 1976.

[2] MIA, POW, PFOD, and KIA (BNR) refer respectively to those Americans currently listed as missing-in-action, prisoner of war, presumed dead (presumptive finding of death), and killed in action with body not recovered.

DIFFICULTIES

It must be recognized at the outset that many of the missing men cannot be accounted for, either by former enemies or by our own forces. This inability to render an accounting derives from one or more of the following factors: Some losses occurred in remote areas or at sea where it is highly unlikely and even impossible to gain access to the crash site or wreckage of an aircraft. Other men simply disappeared while on an aerial combat mission. Still others were lost while engaged in ground combat or on reconnaissance patrols deep in enemy territory. Where aircraft losses are involved, the traumatic nature of many of the crashes suggests there will be few identifiable remains, particularly in cases where local indigenous persons are the only witnesses to an event which may have occurred many years ago. Since they are not skilled in crash site investigation, natives could not be expected to search aircraft wreckage or to sift through the debris to identify, collect, and save partial remains of an unfortunate aircrewman. The ravages of time and climate and actions of predatory animals combine to destroy traces of crash and grave sites, particularly in remote areas where other humans are unlikely to have witnessed combat incidents or to have chanced on the scene afterwards. In some crashes disintegration is so complete that no recognizable debris or remains can be located.

NON-RECOVERABLE REMAINS

It is difficult, perhaps undesirable, to estimate the number of remains for which the governments of Indochina can account. Conversely, it is imperative that a realistic picture be drawn of the accountability situation in order not to raise false hopes.

For purposes of illustration, a few cases can be cited in which it is abundantly clear that no remains can be recovered and no accounting from the Indochinese can be expected. In each of the following cases, the individual is still listed as MIA or KIA (BNR), and his name appears on the data processing lists given to the DRV and PRG giving the names of those Americans for whom we ask an accounting.

Loss in an Armored Personnel Carrier

On May 17, 1967, an armored personnel carrier (APC) operating in South Vietnam detonated a pressure-type mine of approximately 250 pounds while crossing a concrete bridge. The force of the blast turned the APC upside down in the middle of the bridge. The vehicle was enveloped in flames when the fuel tanks ruptured, and the ammunition aboard began to explode. All of the men on or in the APC were extracted except for the platoon commander who was pinned underneath. Burning magnesium parts of the tracked vehicle prevented any attempts to extricate the platoon commander for a period of two hours, after which the wreckage of the APC was removed from the bridge. The outline of a body, formed by human ashes, was visible on the bridge after the metal residue of the vehicle was displaced. A thorough search was made of the surrounding area and local inhabitants were questioned to make sure that the platoon commander had not somehow escaped the fire. Ultimately, the wreckage and the human ashes were bulldozed into the creek. A determination of death was issued within a month of the incident, but the individual's name was still on the list provided the DRV/PRG despite the fact that no further accounting is possible.

Mid-Air Collision

On July 7, 1967, two B-52 aircraft collided over the South China Sea and both exploded, broke up, and crashed into the sea. Search and rescue efforts were conducted over a four-day period involving numerous helicopters, and fixed-wing aircraft and five USN/USCG vessels. Seven survivors were picked up during that period. On July 24, 1967, determinations of death were issued for the six personnel who were not found. Eight years later, in September 1975, the category of these individuals was changed from "Dead—BNR" to "Remains Not Recoverable".

Multiple Loss in a C-130

Five Air Force personnel were lost when the C-130E aircraft in which they were passengers exploded in the air while over the South China Sea east of Nha Trang, South Vietnam on June 17, 1966. The remains of one crewmember were recovered by a Navy gunboat which was in the vicinity of the accident and whose crew observed the initial explosion and subsequent crash of the aircraft in 380 feet of water. Extensive search and salvage operations were conducted over the next three weeks to no avail, and conclusive determinations of death were issued in the five cases by the Department of the Air Force. The Joint Casualty Resolution Center recommended on December 9, 1975, that the remains be considered unrecoverable.

Over-water Losses

In April 1973, the Joint Chiefs of Staff directed that operations be undertaken to locate and identify wreckage of aircraft lost in over-water incidents which were accessible to Naval forces.[2] These operations were to assist in determining the fate of crew members known or believed to be aboard the missing aircraft. Operations were conducted by civilian personnel under contract to the U.S. Navy. Operational control was exercised by Commander, Seventh Fleet through Commander, Task Force 73. The Joint Casualty Resolution Center provided some support and furnished a crash-site investigator aboard the sea salvage ship.

The 82-day search took place from July 10 through September 29, 1973, in a 77 square mile sea area off the coast of Danang (Tourane). A total of 36 worthwhile sonar contacts were made, and in 140 dives, 9 aircraft were located. Two of these aircraft were believed to correlate with crashes involving missing personnel according to the records in the JCRC. One of the sites contained small bone fragments which failed to result in any identification. After nearly three months and a total cost estimated to have been $964,107.80, the recovery attempt was concluded.[3] Because of the time, difficulties, cost, and inconclusive results, further such operations were considered infeasible.

The foregoing cases were among those considered by the Joint Casualty Resolution Center in an exhaustive study to identify and isolate those cases in which recovery of remains is not possible. As a result of that study, it was determined that 436 bodies are not recoverable due to location or circumstances of loss. Unfortunately, in all cases, the names, location of loss, and other pertinent data are included on the data processing lists that were given to the DRV and PRG by the Four-Party Joint Military Team during 1973–75 and for whom we have requested an accounting.

Listing cases for which no accounting can be expected erodes the credibility of the United States data base. Surely the Vietnamese must be confused. Worse, it may appear to the Indochinese leaders that the United States has deliberately requested information which they cannot furnish in order to embarrass them or to prevent meaningful talks.

NONHOSTILE LOSSES—UNACCOUNTABLE

Another category of loss that must be considered is that of the nonhostile missing. Numerous cases exist wherein a serviceman disappeared in territory controlled by friendly forces under circumstances that make it nearly impossible for the Vietnamese or other indigenous forces to account for the missing member.

A Drowning

An Army private first class, for example, was serving with U.S. forces in Cambodia in June 1970. While swimming in a river in Mondol Kiri Province he was carried downstream by a strong current and has never been seen since that time. Witnesses were unable to reach him, and there is no subsequent report of locating his remains. Whether or not his remains have ever been seen is not likely to be known, particularly in light of the social upheaval in Cambodia since the overthrow of the Lon Nol government in 1975.

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[2] JCS message 122242Z April 1973.
[3] Operational details taken from JCRC Summary of At-Sea Operations.

An Oil Slick

Earlier, in October 1966, a Navy lieutenant junior grade disappeared after flying into a thunderstorm off the coast of North Vietnam. No visual or electronic contact was made with him after his disappearance. A subsequent search revealed a large oil slick on the water in the general vicinity of his presumed loss. Despite the fact that the loss occurred over the water, the lieutenant's name still appears on the 1975 data processing list given to the DRV and PRG; yet, the chances are remote that the Vietnamese could know anything concerning the fate of the pilot.

Lost in a River

In September 1969, an Army staff sergeant was on patrol with his unit in Pleiku Province, South Vietnam, when he slipped off a log foot bridge and fell into the river below. The current was swift and swollen from recent rains, and the sergeant disappeared from sight. Approximately 300 yards downstream, waterfalls dropped approximately 60 feet. The sergeant has not been heard from in over seven years, and there is no reason to believe that the Viet Cong or North Vietnamese have any information in this case.

Nonhostile casualties whose bodies have not been recovered include 395 killed and 64 still listed as missing.[4]

An analysis of all cases held by the JCRC revealed that in 332 cases, both hostile and nonhostile, there is no likelihood that the enemy forces have any knowledge of the missing individual.[5]

MIA WITHOUT A TRACE

It is not unusual in major combat operations for some men to disappear without a trace and without witnesses. Many such incidents occurred during hostilities in Indochina. In many cases a missing member was lost in some remote area, the inaccessibility of which militates against his ever being seen again. In some cases, inexplicable and probably unknown to the parent unit, the enemy has detailed knowledge of the circumstances of loss and ultimate fate of the individual. For example, an aircraft that simply disappeared from a friendly radar scope may have crashed in a populated area with many witnesses. The pilot may have parachuted and been captured, or he may have ridden the aircraft to the ground. In either event, the local populace could have considerable information concerning the incident. Unfortunately, in these instances, American intelligence services are not able to determine which cases can readily be resolved by the Indochinese leaders and which cannot, since they cannot determine the location in which the loss occurred. The following actual case histories illustrate the more than 400 in which the member is missing without a trace.

Cause and Location Unknown

On March 20, 1968, an Air Force pilot departed Ubon Royal Thai Air Base in an O-2A aircraft bound for Khe Sanh in South Vietnam. His mission was to support a Marine action. The last voice radio contact with him was at 2:35 p.m. and radar contact was lost with his aircraft at 3:00 p.m. At no time did the pilot indicate difficulty while he was in radio contact with Ubon, and no "Mayday!" emergency signal was broadcast. When he failed to report to the forward air controller at Khe Sanh or to return to base, an electronic search was conducted over his planned flight path which covered part of eastern Thailand, the Laos Panhandle, and western South Vietnam. His last radio communication placed him over Laos. It would appear that his aircraft was downed in Laos, but he could have ventured into Vietnamese airspace or returned to Thailand before running into difficulty.

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[4] DOD Casualty Report, December 31, 1975.

[5] ASD/ISA letter 1-21963/76, to Select Committee Staff Director.

No emergency signals were detected and no wreckage was sighted. The pilot and aircraft disappeared; they have not been seen or reported on in nearly nine years.

Unexplained Loss of a C–130–E

Eleven Air Force personnel were listed as MIA in connection with the loss of a C–130–E deep in northwestern Vietnam near the China-Laos border. The transport aircraft departed Nha Trang Air Base in South Vietnam on December 29, 1967, on a top-secret mission. The plane was equipped with an array of electronic/communications gear. The last radio communication with the aircraft occurred at 4:30 a.m. At that time the plane was over rugged, heavily forested mountains.

Each of the 11 crewmembers was equipped with a URT–27 emergency radio, blinking strobe light, survival kit, and parachute. Whether or not these crewmembers actually wore their parachutes is not known; crewmembers of transport aircraft sometimes wear parachute harnesses but omit affixing the parachutes in the expectation that there will be sufficient time in the event of an emergency to don their parachutes, make their way to emergency exits, and parachute from the stricken aircraft.

No further word was received from the aircraft after 4:30 a.m. Electronic, photographic, and visual reconnaissance flights were flown over the area for a period of two weeks without success. None of the 11 crewmembers of that aircraft ever entered the North Vietnamese POW camp system and none was heard from again.

American intelligence agencies have no information concerning the cause or the location of loss whether it was in China, Laos, or North Vietnam. There has been no trace of the aircraft or crew since embarking on their last mission nine years ago. The nine Air Force personnel are still listed as MIA.

Of the 2,500 personnel not recovered, nearly 800 cases fall into a category where it is doubtful that the Indochinese have any knowledge of the incident.[6] In none of these instances is there evidence of the probable fate of the missing servicemen. There are no indications to suggest that any Indochinese forces have any information concerning the loss, and the United States cannot provide any data on which the Indochinese governments could base a search.

QUESTIONABLE CLASSIFICATION

In a number of instances, missing personnel initially classified MIA were the subject of later reports that might have impelled a status change. An apparent reluctance by DOD personnel to change the status in these cases is evident.

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[6] Footnote deleted.

Obviously Unaccountable

A UH–1H helicopter with five U.S. Army personnel aboard departed Camp Evans on February 2, 1968, bound for Chu Lai on a maintenance run. The aircraft was making a Ground Controlled Approach (GCA) to Danang Air Base. But 12 miles from Danang the ground controllers lost radio and radar contact with the helicopter. A board of inquiry convened by the 1st Cavalry Division (Airmobile) reported on April 9, 1968, that the five men aboard were lost with no trace and recommended that they be carried as missing until such time as their death or possible internment by hostile forces could be proven or until such time as applicable Army Regulations directed a change.

In May 1968 a U.S. Marine unit in the area received a report from a local Montagnard concerning the wreckage of what later proved to be the missing UH–1H helicopter. Army personnel were flown to the reported site to recover bodies and equipment. The group included three graves registration personnel, a nine-man infantry patrol, and an Army crash investigator qualified by the Federal Aviation Agency. The helicopter was identified by the serial number on the tail rotor pylon, the only part of the aircraft that had not been destroyed in the crash and resulting fire. Airborne observers and those on the ground estimated that the helicopter had flown directly into the mountainside and burned on impact. The report of the non-commissioned officer in charge stated:

> When we arrived at the crash site the only recognizable parts of the aircraft was about three (3) feet of the tail section, (w/registration number) the main rotor, engine, (badly burned) and aircraft body (ashes) while searching the ashes we found two(2) M–60 Machineguns and several M–16 Rifles, searching further we found several bone fragments, one two by two (2″ x 2″) which seemed to be part of a human head. We found other pieecs of equipment in the ashes (steel helmets, one combat boot still laced) from our observation we came to the conclusion everyone perished in the crash after witnessing several aircraft of the same type crash for various reasons (shot-down, power-loss, tail rotor failure, etc.). I had the impression the helicopter crashed into the mountain in level flight or a slight decent. I got this impression from size of area the wreckage was found at. Twenty to thirty meters. The Graves Registration crew accompanying the patrol had the same impression.[7]

It was the opinion of the sergeant and other observers that all five persons aboard the helicopter had perished in the crash.

In June 1968 the mortuary division in Danang received a sandbag containing "three or four charred and fractured vertebrae and a small fractured portion (splintered) of what was believed to be a femur bone." These fragments had been collected by the graves registration crew which had investigated the crash site. Mortuary personnel were not able to establish positive identification of the bone fragments, so after several months they were disposed of by incineration at the mortuary.[8]

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[7] Sworn statement by SFC (E–7) Rufus Smith.

In November 1972 a second graves registration team spent three days moving by foot into the same crash site area. The team searched the vicinity for about four hours, describing the terrain as rugged with extremely dense undergrowth of vines and brambles approximately 10 feet in height. The actual remnants of the helicopter were not located and no additional remains were found. The team recommended that no further recovery attempts be made unless the site was cleared of undergrowth and a helicopter landing site established nearby as a base camp to support search operations.[9]

At the request of a next of kin of one of the five missing members, a case review was held. As a consequence, the status of one serviceman was officially changed from MIA to Deceased in accordance with Section 555, Title 37, United States Code. The other four crewmen are still listed as MIA, but all five names are on the data processing lists provided to the DRV and PRG as missing in action.[10]

In this case, it is clear that neither Vietnamese nor American sources can produce any information beyond that already developed. The logical assumption is that all five crewmen died in the crash of the helicopter in February 1968. The initial determination that they were MIA was appropriate, based on information available at the time. After the first inspection party visited the site in May 1968, sufficient evidence was obtained to warrant a change in status from MIA to KIA, but no change in status was made despite reviewboard recommendations that a declaration of "KIA—nonhostile" be rendered.

The abortive effort to revisit the site in 1972 demonstrates the continuing priority levied by the Department of Defense to gain information on the missing as well as the tremendous difficulties encountered in finding and searching crash and grave sites, particularly after the passage of several months or years.

Spectre 17

The case of Spectre 17 is described in detail in chapter 4. This C–130 gunship exploded in mid-air over Laos and two of the crew of fourteen parachuted safely and were rescued. Both survivors stated that in their view no one else lived through the incident. No other parachutes were observed, no emergency radio signals were heard from any other source in the area, and no other strobe lights were seen by the rescue forces. The initial classification was MIA for 11 of the crew and KIA for one member whose dismembered arm was recovered on the day following the crash by a Royal Lao unit. Seven months later, a Pathet Lao rallier reported that his unit had searched the wreckage the morning after the crash and had buried the charred and partial remains of several persons, estimated to be at least five or six, and he stated that there could have been additional remains in the wreckage but there was no chance to identify them. The likelihood that anyone survived the crash other than the two sergeants who parachuted to safety is remote, and, based on the eyewitness reports by the two sergeants, an initial status of MIA would have been entirely proper. Receipt of the rallier report was sufficient basis for changing the status from MIA to KIA (BNR) seven months later. Even allowing for the caution exhibited by the unit commanding officer in determining status, the return of POW's in 1973 coupled with the complete absence of any further information on Spectre 17 constituted a sound basis for rendering Presumptive Findings of Death (PFOD) under Section 555, Title 37, U.S. Code, within a few months after the return of the American POW's.

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[8] Chief of Mortuary Division, Statement in Personnel Casualty file. It should be noted that the Central Identification Laboratory had not yet been established.

[9] Department of the Army, 148th Supply and Service Company, After Action Report, S&R Mission 148 1972–006.

[10] During this period case reviews depended on requests from next of kin.

Comment

A great number of the cases still listed as MIA or POW fall into the same category as that of Spectre 17 or that of the UH-1H crew. After the incident of loss, additional information or physical evidence was received that had a bearing on the classification, but the status was not changed. Recognizing that it is easy to pass judgment in retrospect and that the military commanders on the spot have the authority and responsibility to make such judgments, the committee does not fault the military commanders. The strong probability that many of the MIA cases could have been declared KIA at the time of loss or shortly thereafter militates in favor of early adjudication by case review of those tenuous cases.

THE RAVAGES OF THE ENVIRONMENT

Prospects for successful recovery and identification of remains of U.S. personnel in Southeast Asia diminish significantly with the passage of time. The major contributing factor to this bleak outlook is the natural environment in the area. The hot, moist climate induces rapid proliferation and growth of all forms of vegetation which effectively obscures evidence of remains, grave and crash sites. This has been demonstrated to the Army in Vietnam even in recoveries attempted only weeks after death. Plants not only entwine themselves around the skeleton, but actually bore their way through the porous tissue of the long bones thereby weakening them. Insect action, whether the remains are buried or on ground surface, is recognized as hastening general bone deterioration of the remains. Animals also participate in this process either by gnawing or dragging away large bones.[11]

Coupled with the problem of flora and fauna activity are the effects of the heavy rains during the monsoons. The torrential rains tend to scatter the dismembered portions and disarticulated skeletal remains. In addition, a large amount of topsoil is dislocated by the rushing water, and the remains are often buried in the mud.

Fossilization of skeletal remains is not common in Vietnam. No remains received by the U.S. Army mortuaries in Vietnam or the U.S. Army Central Identification Laboratory, formerly in Thailand, exhibited any traces of the fossilization process, including remains recovered as long as ten years after death. This phenomenon applies equally to remains found in the Central Highlands and in the Delta regions. The chemical content of the soil is such that the successful interchange of the organic matter of the bone and the inorganic minerals in the earth cannot readily be accomplished.

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[11] In an interview with Dr. Job Dittberner of the Select Committee Staff, General Vang Pao stated that bears and porcupines were mainly responsible for disturbing skeletal remains in the hinterland of Laos.

Instead of fossilization, what was routinely observed was a leaching out of the fats and other organic content of the bone. Surface flaking, pitting, natural weathering, and other erosion cause changes in the inner architecture, resulting in extreme fragility of the bone. When fragile bones are exhumed carelessly or by inexperienced personnel, the chance of breakage or loss of critical parts is markedly increased. Maximum recovery of the skeletal structure is essential to assure complete and accurate identification, or at least to support diagnosis of race, age, sex, height, and bone pathologies.

Teeth are the most indestructible part of the human body, but anterior teeth are apt to fall out and become lost due to deterioration of the supporting structure. Charred, loose teeth resemble pebbles and are easily overlooked during recovery operations, even by experienced personnel.

Erosion and environmental changes destroy the blood-producing bone tissue without which blood type cannot be established.

Compounding the devastating effects of the elements on the remains is the fact that most combat casualties suffered extreme trauma at time of death. Blast, burning, and rapid deceleration injuries common to explosive, vehicular, and aircraft incidents cause loss of portions essential to establish identification. Long bones, the pelvic structure, and the teeth yield the most valuable data. If all or most of the skull is missing, it becomes impossible to accomplish a comparison with photographs of the individual.

In the case of Southeast Asia, American MIA's have been lost for an average span of 8½ years, a significant lapse of time when viewed in the context of identification problems.

Positive identification of remains constitutes the only prima facie proof of death. Partial identification coupled with information or secondary means of identification such as identification tags or cards, and vehicle or aircraft markings can establish a strong circumstantial case with respect to identity; some think these so-called secondary means of identification should be considered prima facie proof. Identification based solely on secondary means, however, is subject to dispute, but in many cases, this will constitute the only identification possible.

TRAUMATIC CRASHES

Records show that 81 percent of the Americans missing in Southeast Asia are aviators. An analysis by the Joint Casualty Resolution Center concluded that of more than 2,000 POW/MIA/KIA(BNR) aviation personnel, only 179 are known to have ejected from downed aircraft. Although a few additional aviators probably ejected, it is unlikely that any significant number did so.

The select committee requested that the Naval Safety Center, Norfolk, Va., provide certain important data bearing on the difficuties in identifying aviation personnel who were involved in fatal crashes. The safety center had compiled detailed information on peacetime or noncombat fatalities. For purposes of direct comparison, only those aircraft types used in Southeast Asia on combat missions were screened. It is important to note that in all but two cases, crash investigators arrived on the scene within hours after the fatal crash.[12]

The control group considered in the Navy study included all combat-type aircraft involved in noncombat fatalities during the period January 1, 1969, through June 30, 1975, and focused on "Code A" fatalities, i.e., insufficient remains recovered for positive identification but sufficient for tissue/fluid specimen. A positive identification was possible in most cases only by advance knowledge of who was in the aircraft.

FATAL PEACETIME ACCIDENTS, NAVY COMBAT-TYPE AIRCRAFT [1]

Type Aircraft	Fatalities	Fatalities, Code A
A3	16	10
A4	38	12
RA5C	5	5
A6	24	12
A7	20	6
F4	41	11
F8	13	6
Total	157	62

[1] Naval Safety Center, Serial 394 of February 5, 1976.

Of the 157 non-ejection fatalities, 62, or 40 percent, were Code A and could not be identified solely by autopsy. It is significant to note that prima facie identification was not assured despite quick recovery and positive correlation between location of loss and occupant of the aircraft. In the case of combat fatalities in Southeast Asia, there has now been an average lapse of 9 years since the crash. Bones that were not destroyed in the crashes have since been subjected to the ravages of deterioration, loss, scattering, or mastication by animals unless the remains were located immediately and safeguarded by local military forces or the indigenous populace.

One of the early projects of the Joint Casualty Resolution Center was that of preparing operational data aimed at locating and searching out crash and grave sites. More recent careful analysis of the information now shows that crash-site investigation is not likely to be productive as an accounting tool. More than half of the aircraft losses associated with an MIA cannot be pinpointed with any degree of confidence. Inaccuracy ranges from several hundred meters to many and perhaps hundreds of miles in about 427 cases or 54 percent of the crash sites. Another 123 sites have been visited, either by crash site investigators, reconnaissance patrols, or SAR crews. Only 243 or 30.6 percent of the crash sites which have not been visited were located with reasonable accuracy through March 1973. Many of these cannot be found now due to jungle growth, scavenging, effects of weather, etc.[13]

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[12] In two cases, the time lapse was about six months; in all other cases, recovery was achieved within hours of the crash.

[13] Royal Lao General Vang Pao commented on this problem in March 1976, in an interview with Dr. Job Dittberner of the select committee staff. In one case where the fireball from a crash was visible to natives in a nearby Laotian village, it required a two-day effort by all of the villagers to locate the wreckage.

CRASH SITE DATA

Crash site	North Vietnam	South Vietnam	Laos	Cambodia	Total
Visited	2	80	32	9	123
Located	54	43	140	6	243
Unknown	270	96	61	5	427
Total	326	214	233	20	793

Use of the term "crash site" can be misleading. The chart above reflects 793 missing aircraft associated with MIA or KIA (BNR) personnel in Southeast Asia. Sites that have been visited generally offer no further probability of recovering remains or developing any useful information concerning that particular loss. Sites listed as unknown are not likely to be found except in those cases where indigenous persons witnessed the crash or later observed the crash site. The grid coordinates on the computer printouts given to the Vietnamese are the last-known or best-known locations for each of the missing aircraft in this category. In some cases those grid coordinates reflect the end of the runway from which the aircraft took off on its last flight. In other cases analysts conveniently wrote down the grid coordinates of Hoa Lo prison in Hanoi when there was no indication whatever of the place of loss. For example, some aircraft failed to make an airborne refueling rendezvous or failed to report on schedule by radio and no further trace of the aircraft has ever been received. Losses of this nature could have occurred in remote jungles, in the karst of Laos, in rivers or lakes, at sea, or even in an adjacent country. Receiving any information on these losses will be a matter of luck wherein former enemies happened to see or find evidence of the crash or the crew.

SCATTERING AND LOSS OF REMAINS

On February 7, 1968, a U.S. sailor serving with River Division 111 was badly wounded while on a river patrol in the delta area of South Vietnam. He fell over the side of the armored troop carrier in which he was embarked and was washed downstream after rescue efforts failed.

In August 1974, the U.S. delegation to the Four Party Joint Military Team in Saigon received a report that an American body had floated on shore at Binh Hung Island some six years earlier. An American investigator was sent to the island where he obtained statements from local residents before directing recovery operations.

The following statement was taken from the owner of the property on which the remains were found—it is quoted, complete with its original grammar and spelling, to illustrate the difficulties encountered in this type of recovery operation.

> On the 7th of January (lunar calendar) of the Tet of the Monkey, the inhibitants of An Thanh hamlet saw an American body floated to the river shore of this hamlet and was subsequently decomposed at the base of one of the Ban trees. Due to the fights between the GVN and the VC going on on the

> New Year's days, nobody dared bury this corpse and its remains lied in weed since then.
>
> Sometime in the year of the Dog (1970) Mr. Sau excavated this area to get dirt to fill up the hamlet dirt road by the shore, he unexpectedly picked up a few long bones and ribs and threw them at the foot of one of the Ban trees. Additionally, he found a chain of keys and 1 dog tag. It was heard that water-buffalo boys had picked up the fatigue and one mental-sick man took the black leathered boots of this body. The boots were then dried under the sun on the roof of Mr. Cho's house. One of them was swept to the ground by a strong gist of wind and was immediately picked away by a dog. The other one was lately heard thrown into a river by the mental-sick man. Due to my repeated interpelations of the residents of this hamlet, nobody has even any vague idea which river that the second boot had been thrown into as the sick-man moved his house to Cang Long (D) Vinh Vinh (P) a few years after the Tet's general offensive attacks. Mr. Sau had also heard that the water-buffalo boys of the upper part of An Binh village had picked up the skull of this remains, tied it with string and pulled it on this hamlet dirt road just for fun. Those unidentified boys were lately caught playing with the skull, repremanded by the aged people and threw it away beyond the knowledge of the hamlet inhabitants.
>
> It is reminded that in the past of few days, Mr. Sau and his wife have thoroughly searched his house, at every corner, and were unable to find the chain of keys and the dog tag and both of them do not know even when these things disappeared.
>
> Now, here I am, my friends and I are ready to help you recover as many bones as possible—said Mr. Sau.[14]

The officer-in-charge of the recovery operations used local inhabitants to assist in the physical search at the site. A 25-foot square was marked off, and the natives searched by hand in two feet of mud. The skull was not located, but 41 bones were recovered and later identified. Information provided by the indigenous personnel correlated with that known by the JCRC personnel and the anthropological examination of the recovered bones agreed with the identity of the missing sailor. Unfortunately no personal effects were found and those referred to by the local people had long since been lost or misplaced.

KINDS OF ACCOUNTING

It is important that the people of the United States know what constitutes an accounting. There are no convenient historical examples to serve our interest. What is now being demanded of the Indochinese governments is unusual. After the 1946–54 war, the French did not receive information on their missing.[15] The United States has never asked for such a volume of information on its missing, especially from a former enemy that was not defeated, and in a war as complex as the

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[14] This statement appears at Tab 3 to ASDISA memo 1–1472/76 of February 11, 1976, to the Staff Director.

[15] French remains still being returned are "soldiers who died for France" and were interred by the French in French cemeteries in Indochina.

Vietnam war proved to be. There are no examples in world history to compare with the accounting now being requested. The unique circumstances, therefore, make it necessary to clarify the ways in which an accounting can be made, legal tests that may or may not be satisfied, minimal and optimal expectations, and prospects for achieving the end results desired.

A satisfactory accounting would require identifiable remains and a report of known circumstances of loss. As indicated above, that kind of report is unlikely, in the majority of cases. It is evident, therefore, that any accounting will be far less than optimum. This gives rise to several questions. Who will judge the adequacy of any reports received? How many individual cases of MIA's, POW's, and KIA's (BNR) are likely to be resolved? Will the Department of Defense in many cases endorse mere reports on our MIA's without remains and will that be acceptable to the next of kin? How do we avoid getting into the same sort of dilemma in any future war?

REMAINS

Human remains provide the only positive basis for prima facie identification of the missing. Other forms of circumstantial identification may be subject to legal challenge, but when anthropological and forensic experts pass medical judgment and show beyond doubt that a given set of remains can only have been a specific individual there is little room for challenge. Such a finding, however, merely identifies the individual and establishes the fact of his death; it does not establish when or how that person died.

In March 1973 when American armed forces were withdrawn from Vietnam, a Central Identification Laboratory (CIL) was activated at Camp Samae San, Thailand to replace the mortuary capability that had been exercised in Vietnam for a decade.[16] The laboratory was equipped and staffed to perform all the highly specialized identification procedures normally found in a mortuary. When U.S. combatant forces were removed from Thailand, in mid-1976, the CIL redeployed to Kapalama, Hawaii where it continues its JCRC-associated function.

One of the principal functions of the CIL is maintenance of personal data on all Americans still unaccounted for. Health and dental records are kept in the individual casualty files to aid in identifying recovered remains. The files currently kept at the CIL in Hawaii (CIL-HA) pertain to all POW, MIA, KIA (BNR), U.S. and known foreign civilians detained or killed and not recovered, and deserters/defectors believed to have remained in Indochina. Physical data on defectors and known deserters is also maintained.

Identification depends on the type and extent of remains and the ability to correlate the scientific analysis of those remains with biographic and anatomic data associated with the individual. Identification includes blood typing, dental comparison, study of body construction and individual characteristics, and may include a craniofacial photographic superimposition evaluation. Depending on the specific bones recovered, positive identification may be made with as little as

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[16] Hearings, part 5. The U.S. Air Force Mortuary, Philippines, provided mortuary service support for U.S. advisors in Vietnam beginning in 1961. In 1963, the Air Force established a mortuary at Tan Son Nhut Air Force Base. The U.S. Army assumed responsibility for all mortuary support in Vietnam on July 1, 1966.

10% of the skeletal structure, if the dental portion is recovered or if a uniquely characteristic bone exists. In other cases, a minimum of 65% of the skeleton accompanied by acceptable information on the incident of loss may be needed to establish the identity.[17]

Since its inception the CIL has recommended positive identification of the following American remains:

24 received in Saigon and evacuated to Thailand
23 received from the DRV in Hanoi in March 1974
2 ash remains turned over by the Chinese in December 1975
3 remains given to the select committee in Hanoi in December 1975
2 remains of Marines killed in Saigon in April 1975 and given to staff members of Senator Kennedy's staff in Saigon in March 1976

There are limits to the capability for establishing positive identification of remains. Eleven remains were studied over a period of 3 years before one was identified as an MIA in mid-1976. A second one was determined to be an Asian mongoloid and not one of the American MIA's. Of the other 9 remains, 7 have tentatively been identified and now await further tests for final confirmation of identity. The last two are known to be caucasian but whether they are American or whether they are military or civilian is not known at this time.

In any accounting by Indochinese officials, there will likely be cases where only partial remains are recovered. Important parts will be missing and identification will range from difficult to impossible.

When partial remains are accompanied by information on the location and time of an incident it may be possible to establish with reasonable assurance the identity of a specific person. In cases of multiple fatalities in a single incident, and where anthropological details are similar, the most intensive examination might result in a conclusion that one or more remains could correlate to any one of several missing members.

In sum, physical remains constitute the best and only wholly convincing means of identification. Positive identification may be possible where adequate bones are received and where the related physical/biographic data are available. Some identifications will be possible to a convincing degree where partial remains are acquired. Undoubtedly identification of some partial remains will remain unresolved despite advanced scientific investigative techniques and equipment used in this process.

PERSONAL POSSESSIONS

An important form of accounting is the return of personal possessions that can be related directly and positively to a missing member. Official service identification cards, personal pictures, handwritten notes, clothing items, individual weapons, military identification tags and other personal effects will serve to corroborate information reports on individuals. Return of such items does not reveal whether that individual was taken alive or found dead in aircraft wreckage or at the scene of a ground-combat skirmish. Without additional information, return of personal items would add little to what is already known.

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[17] See Chapter 7.

For example, in November 1967 two F4 aircraft were shot down over Haiphong, North Vietnam. Within days the military identification cards of the 2 pilots and 2 radar intercept officers were published in Communist newspapers with the accompanying statement that these "air bandits" had been captured. Two of the missing members returned alive in Operation Homecoming in 1973. The other two, Navy Lieutenants (junior grade) James Teague and Walter Estes have not been reliably reported on since the date their aircraft was shot down. Their fate remains a mystery. Return of identification cards would not add to what is already known about the two officers. The fact that the Vietnamese had possession of those cards, however, clearly establishes that they also had custody of the officers or their remains and should be fully capable of repatriating them and describing the circumstances of their loss.

In other cases, the return of an identification card or other item of personal property could be very significant, particularly where an individual simply disappeared and information in his case file fails to indicate cause, location or general circumstances of loss. Physical evidence of this nature coupled with additional information would demonstrate the cooperation of the Indochinese officials while at the same time contribute materially to resolution of the specific case. The physical evidence would serve to substantiate other information provided by the former enemy. In these cases one would expect that the remains would also be retrievable except where a plausible explanation showed why remains had not been recovered.

The select committee heard unverified reports that the Vietnamese established a museum in Hanoi in which are displayed numerous personal items taken from casualties or POW's. Published photos of ID cards of American MIA's and other such items lends credence to the belief that such a museum exists. If this rumor is true, the Vietnamese have a significant capability to return these items, which, together with reports on incidents, would facilitate resolution of a large number of cases still unaccounted for.

AIRCRAFT IDENTIFICATION

A third possible form of accounting relates to physical evidence of aircraft wreckage. Many key components of combat aircraft are imprinted with serial numbers.[18] The proclivity of indigenous persons for stripping wreckage of all usable parts suggests that many identifiable parts of aircraft have been retrieved by natives. Return of those parts, coupled with even rudimentary information on the location or circumstances of the crash, could be exceptionally helpful in resolving some of the missing cases.

It should be clear, however, that return of an identifiable aircraft part would not be useful by itself. The approximate crash site is known for 46% of the downed aircraft associated with an MIA. Additional information on the incident, and particularly what happened to the pilot or crew, is essential. The crash site is unknown in 54% of the MIA cases and recovery of an identifiable part would do no more than confirm what is already known, the plane crashed. Without some elaboration, the part itself would be useless. Even minimal elaboration could prove extremely valuable. Proper investigation might reveal whether or not the pilot ejected, whether any American was captured or killed nearby at the time of the incident, whether any remains were seen in the wreckage, or whether remains were discovered and interred near the crash.

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[18] Serial numbers appear to have no particular relevance in incidents involving ground vehicles since survivability in ejection or death in a crash are not part of the equation.

INFORMATION OF INCIDENTS

It should be clear that an accounting based on physical evidence or mortal remains is incomplete without some explanation of the location and circumstances by which the evidence or remains were acquired. By the same token, an explanation without corroborating evidence is subject to challenge. Nevertheless, it must be expected that the Indochinese officials will be able or willing to provide no more than basic or inconclusive information in many cases and completely negative reports in others.

In 1974 the North Vietnamese returned the remains of 23 American pilots who had died in captivity. The remains were accompanied by certificates of death purporting to show the proximate cause of death, but no additional information was provided by the Vietnamese. In each of these cases the testimony of returned POW's provided sufficient information about the final days of the deceased pilots to affirm that in all likelihood they died in the manner described in the certificates of death.

A hypothetical case illustrates the kind of incident where no more than a negative report can be expected. An aircraft and its pilot crashing at high speed would be demolished beyond recognition. Even expert crash investigators arriving on the scene immediately could not expect to locate sufficient remains for identification. Local inhabitants, with no fondness for the pilot of a hostile aircraft, could hardly be expected to search diligently in wreckage to gather partial remains for later identification. Indeed, in many cases it would be difficult without detailed expert study to determine whether or not anyone had been in the plane at the time of its crash. Unless a parachute had been sighted or an enemy captured in the vicinity, local inhabitants would probably assume that the pilot had perished in the crash. Any report emanating from the hamlet now, several years after the incident, would hardly be more than a simple statement that an airplane had crashed in a general location on or about a certain day, or month, and that it was impossible to determine whether or not the pilot was still in the wreckage; and that no parachute was seen and no one was captured in the vicinity. A report of this nature might not be acceptable to next of kin, yet it might constitute the only accounting possible. Unless official reports by competent observers showed clearly that more detailed information was available, a negative report would probably have to be accepted at face value.

When considering the kinds of accounting that are possible, it is apparent that in some cases, there will be no recourse but to accept the word of formerly hostile powers unless we hold evidence to the contrary. In many cases remains can be positively identified. Physical evidence such as personal possessions or aircraft identification and information or reports may never be conclusive. Indeed, JCRC experience indicates that obstacles of terrain, monsoons, tropical decay, aircraft pilferage, and animal removal or molestation of remains will certainly preclude recovery and identification of the great majority of the missing Americans. In addition, there may be many more about whom no information is available. It is in this context, with a full understanding of the difficulties involved, that the select committee urges as full an accounting as possible under the circumstances.

A Reasonable Expectation

Attempts have been made to predict how many missing Americans might reasonably be accounted for, but neither the Department of Defense nor the select committee has been able to compute a number in which there is a high degree of confidence. Far too many variables exist in the separate cases and in the capability and ultimate willingness of Indochinese governments to provide an accounting.

Yet some sort of forecast is both necessary and appropriate because of the priority placed on an accounting by interest groups and by the families of the missing men.

It is important that those who demand an accounting accept the shortcomings that will attend any reporting on our missing, at least in a general sense, as well as the limited possibilities for an accounting that exist in many specific cases.

Indochinese governments cannot be expected to have any information on the fate or whereabouts of fully half of the Americans who disappeared in Indochina during the war, the nonrecoverables discussed earlier. The possibility for receiving remains or information on incidents of loss will vary with the circumstances of each case. The ability of various governments to provide information depends, in addition, on what sort of organized collection effort they exercised during hostilities and the priority they have applied to this issue both during and since hostilities.

The ability to provide data will differ in each of the four major areas of combat as it will for each of the former hostile powers. In addition, willingness to provide information or remains will differ, depending on how each nation perceives the value the United States places on POW/MIA information in contrast to their own needs for reconstruction aid or desire for more normal relations with the United States.

In 1976 the DRV and PRG combined to assume the new identity of the Socialist Republic of Vietnam (SRV). It is clear that the SRV will speak for that country, but expectations for an accounting differ for the two halves. The shadowy Viet Cong, the principal enemy in the south, had only a field-expedient capability for making and maintaining records. In the north, however, the highly centralized and structured organization of government was eminently capable of recording all American losses that occurred within range of a hamlet, village, or military unit.

Laos and Cambodia present special problems. Each of these states was the scene of different kinds of warfare at different stages of the war, but Vietnamese forces, whether Viet Cong or North Vietnamese Army, were present in substantial numbers in both geographic areas. Although the Vietnamese do not openly admit their presence in those two countries, this fact intrudes importantly on the ability of those two governments to provide an accounting for Americans missing in areas occupied by their Vietnamese mentors.

NORTH VIETNAM

The air war over North Vietnam cost 475 MIA's, of whom 16 are classified as POW's. Another 294 were killed, but their bodies could not be recovered. These Americans represent only a small part of the total cost in human casualties paid in operations conducted over the Democratic Republic of Vietnam. Pilots or aircrewmen shot down over the north had only minimal chances of rescue, but if they survived the shootdown, ejection, and initial confrontation with the hostile populace or military forces, their chances for returning alive were better than in any other combat area in Indochina. The emergence from POW camps in the North of 450 aviators who had been downed over the North verifies this statement, but it does not indicate the brutality to which the unfortunate POW's were subjected.[19]

According to the JCRC data base, of the 326 crash sites in North Vietnam only 56 have been located with assurance while 270, over 85 percent, are unknown to U.S. intelligence agencies. On the other hand, North Vietnamese radio broadcasts during hostilities show that in many cases the details of shootdowns are known to the Vietnamese and in many cases the remains of American pilots have obviously been recovered from aircraft wreckage or from ground sites where wounded or injured aircrewmen parachuted. Movie films, evidence of letters having been written, broadcast claims of capture, and newspaper photos or articles revealing the custody at least of the corpus of a downed aviator, all combine to suggest that the North Vietnamese can account for a very substantial number of the Americans lost over their territory.

In his testimony before the select committee, Lt. Gen. Vernon A. Walters, then Deputy Director of the Central Intelligence Agency, spoke for the national intelligence community. The General stated the collective opinion of the intelligence community that there was no question that the North Vietnamese have knowledge concerning the fate of some unaccounted-for U.S. personnel lost over North Vietnam. He went on to say:

> A wealth of information on specific aircraft downings was published in the North Vietnamese press throughout the Vietnamese war.
>
> At times only the fact that the aircraft was downed in a specific province or district was broadcast, at other times the fate of the pilot was mentioned.
>
> A locality or unit was oftentimes commended for capturing a U.S. pilot or downing a U.S. aircraft.
>
> A Communist source interrogated during the Vietnam war stated that the DRV intelligence and security services maintained central listings of all U.S. PW's detained in the Democratic Republic of Vietnam.

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[19] For a detailed elaboration of the treatment of American prisoners in Indochina, see John G. Hubbell, *P.O.W.* (Readers Digest Press, New York), 1976.

[20] Footnote deleted.

> This source also reported as a DRV requirement that all data pertaining to the death and burial of an American prisoner, whether in the DRV or the South, was to be forwarded to Hanoi as quickly as possible, together with sketches of the burial site.
>
> It was reported that the Policy Office of the DRV Ministry of Defense, Enemy Proselyting Department, was required to examine and store all PW personnel effects, documents, military clothing, hand-carried equipment, and dog tags.
>
> When the body of an American was recovered, or when a PW died in captivity in the DRV, all personal effects were turned in to the policy office for storage and the Office arranged for burial of the American.
>
> Based on this information and the known Communist proclivity for detailed reporting, it is believed that the DRV/PRG holds significant amounts of accurate information on former and current American MIA/KIA in Southeast Asia.[21]

During their December 1975 visit to Hanoi, select committee members pursued with Vietnamese leaders the subject of an accounting. The Vietnamese gave assurances that they have established an agency to gather information on the MIA's, and the members had an opportunity to speak with the director of that agency. The Vietnamese were careful, however, not to reveal the extent of their information or their capability to render an accounting.[22] It is important to note that as early as 1973, North Vietnam publicly announced that it had issued directives to its responsible organs to seek MIA information.[23]

Without being able to affix a number, the select committee concludes that the Socialist Republic of Vietnam can account for a substantial number of Americans lost over the North. It is not clear whether or not the Vietnamese will provide information or remains for Americans lost in areas occupied by their forces outside of North Vietnam or whether they will assist the present governments of those countries to do so.

SOUTH VIETNAM

There are 541 Americans missing in South Vietnam, including 15 still listed as POW. In addition, there were 567 KIA whose bodies have not been recovered. There has been no accounting for these Americans to date. At the time of the prisoner exchange in 1973, the Provisional Revolutionary Government made initial preparations to repatriate the remains of 40 American servicemen whom they reported as having died in captivity, but they failed to do so.

The nature of ground combat between irregular units of the Viet Cong, often in rugged, almost inaccessible, terrain suggests that in many cases the remains of soldiers killed but not recovered may no longer be recoverable. Lightly armed, fast moving guerrilla forces rarely have the time or opportunity to bury their enemy's dead, record the burial site, and report that information to higher headquarters.

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[21] Select Committee hearings, "Americans Missing in Southeast Asia," part 3, pp. 124–125.

[22] Memorandum for the Record of December 21 and 22, 1975.

[23] See chapter IV, "Communist Statements on POW's," p. 19.

Even in cases where these feats might have been accomplished, the difficulties in relocating a field burial site in the hinterland are enormous. Not only is map reading extremely difficult, but the rapid growth of vegetation presents substantial problems.

General Walters had already pointed out that the DRV required that all information developed on Americans killed or captured be forwarded to Hanoi, even for those incidents occurring in South Vietnam. The deputy director went on to describe the intelligence community's assessment of the PRG's ability to provide information on missing Americans:

> From the available evidence we have concluded that more Americans were captured than were acknowledged by the PRG.
>
> It is apparent that the enemy in South Vietnam kept some records on American battle casualties, U.S. PW's, and Americans who died after capture.
>
> Captured enemy documents included directives to local units for the collection of identification papers from the bodies of dead Americans.
>
> The extent of these records is not known, and one should not be overly optimistic that such records will be detailed enough to resolve MIA cases.[24]

There has been at least one significant development with respect to POW/MIA information availability in South Vietnam. In April 1976, during a visit to Vietnam, members of Friendshipment travelled south of the former demarcation line. The two halves of that country had not yet been joined as the Socialist Republic of Vietnam. In South Vietnam, in both the former Imperial Capital at Hue and what was once the III Marine Amphibious Force bastion of Danang, members of the group were told of efforts being made at province level to gather information on MIA's and to mark graves in which Americans were buried.[25] No information was given by the Vietnamese, however, to indicate how many grave sites had been marked or on how many incidents they could report.

The nature of losses in South Vietnam indicates that a large percentage are nonrecoverable and, except for reports already on file, are unaccountable by hostile forces. Many other losses are not likely to be explained by the Vietnamese due to circumstances of the engagement, type forces involved, or the transitory character of guerrilla warfare with its concomitant affect on useful recordkeeping. Nevertheless, during hostilities many reports of Americans captured or killed in the South were forwarded to Hanoi by its forces in the South and by the Viet Cong, and that information was collated by the DRV. In addition, many of the U.S. returnees observed Viet Cong forces operating in nearby Cambodia. There is hope that some information may be available from the Vietnamese on Americans lost in Cambodia, either directly from them or through the Cambodian government.

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[24] Select Committee hearings, part 3, p. 125.

[25] Staff Director interview with Lowell Finley on May 6, 1976. Mr. Finley was part of the 6-person Friendshipment group invited to Vietnam by the Vietnamese Committee for Solidarity with the American People. This report conforms with information received by the Select Committee during the Hanoi visit that information-gathering was being conducted at province level.

LAOS

In Laos 205 Americans were killed whose bodies were not recovered, and 350 were listed as missing or prisoner who have not been accounted for. Next-of-kin find it difficult to accept the possibility that none of these men survived. Yet, as pointed out in chapter 7, the survival in Laos for airmen shot down in that inhospitable country was comparable to the rate for all of Indochina and better than that for North Vietnam. It is equally difficult for next-of-kin to accept that getting an accounting for missing Americans in Laos runs afoul of certain political or diplomatic restraints, at least as those restraints may be perceived by the Pathet Lao and Vietnamese.

An analysis of casualties in Laos indicates that the Lao will have very little information on American MIA's for a combination of reasons. North Vietnamese forces occupied most of the areas in which significant American losses occurred. The Ho Chi Minh Trail, running through Laos and entering the northern half of South Vietnam in several places, was occupied almost solely by North Vietnamese forces. It was in this rugged, mountainous, heavily defended area that about one-half of downed American aircraft were lost.

Unfortunately, the North Vietnamese have consistently denied having any sizeable presence outside of North Vietnam, whether in Laos, Cambodia, or South Vietnam. For them to furnish POW/MIA information directly to the American Government now would be tacit admission that they did, indeed, send massive expeditionary forces into neighboring countries. This they may not choose to do.

As a case in point: In June 1976, a three-man delegation from the Fraser, Michigan VFW Post, accompanied by a French-speaking retired American colonel who now resides in France, visited the DRV Embassy in Paris. The group had attempted to present to the Vietnamese a petition bearing 80,000 signatures demanding information on USAF Capt. Robert L. Tucci who had been shot down in Laos on November 12, 1969. The DRV First Secretary, Do Thanh, received the delegation and listened to their presentation. During the conversation, Do Thanh was reported to have said they, the Vietnamese, knew all about Captain Tucci and that he would be the first one accounted for when the United States changed its hostile attitude and complied with Article 21 of the Paris Peace Agreements, healing the wounds of war.[26]

Admission that the Vietnamese knew all about Captain Tucci seemed to be a major breakthrough because it constituted the first time that the Vietnamese acknowledged having information about events in Laos. Do Thanh was shortly to rectify that apparent dichotomy. In a letter of August 2, 1976, the DRV First Secretary advised Mr. Nelson Amsdill, Commander of the Fraser, Michigan VFW Post, that the Vietnamese were not competent to talk about Captain Tucci and that the VFW group should address its query to the Government of Laos for the simple reason that Captain Tucci's plane was downed over Lao territory. The secretary implied that the interpreter had not understood the allegorical manner in which he had spoken; he had meant that if the remaining problems of the Paris Peace Agreements were to be resolved there would easily be information not about one Tucci but about many Tuccis.[27]

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[26] The VFW Post had mailed to the DRV Embassy a vast number of news clippings describing the Post's drive for signatures and its plans to visit the DRV Embassy in Paris to gain an accounting for Captain Tucci.

Aside from the Ho Chi Minh Trail, there was only one other area of major American losses in Laos—the Plaine des Jarres. It was on and around this famous plain that General Vang Pao's forces flowed and ebbed against the Pathet Lao outriders and the North Vietnamese regulars. It was on and around this plain, also, that approximately 45 percent of downed American aircraft were lost. The fact that the Pathet Lao were irregular forces not given to recordkeeping was exacerbated by their tenuous control of this region, inhibiting their graves registration capability still further.[28]

Select committee efforts to press for an accounting and to gain information on POW's/MIA's in Laos began with the visit to Vientiane by staff member Dr. Henry J. Kenny. Dr. Kenny paid official calls on three ranking Pathet Lao and met informally with several other foreign dignitaries while in Vientiane from December 1 through 8, 1975.[29]

His visit laid the groundwork for talks on December 23, 1975, between Chief of Cabinet Soubanh Srithirath and Chairman Montgomery, accompanied by Congressmen Richard L. Ottinger (D-N.Y.), Paul N. McCloskey, Jr. (R-Calif.), and Benjamin A. Gilman (R-N.Y.) of the select committee. The Lao Chief of Cabinet made it clear that they held no living Americans and that gathering information on American MIA's had a low priority in the minds of the Pathet Lao. At most, he said, the Lao would record information on American MIA's as they searched for their own missing and would pass that information to the U.S. Government as it was obtained. Pointed reference was also made to implied U.S. commitments to heal the wounds of war.[30]

Chairman Montgomery gave Mr. Soubanh five case summaries of Americans known to have been prisoners of the Pathet Lao plus a summary of the Spectre 17 case in which 11 Americans are still missing.[31] The Chief of Cabinet accepted the files but provided no information or any assurance that information would be forthcoming.

In his testimony before the select committee on March 17, 1976, Lt. Gen. Vernon A. Walters provided several insights into the POW/MIA situation in Laos. He referred to confirmed reports that three American POW's had been held in caves at Sam Neua, the administrative capital of the Pathet Lao, and unconfirmed reports that other Americans were being held. The General was ambivalent concerning the possible existence of an organized prison system in that remote country. As an indication that the Pathet Lao should have central records and information on MIA's, the General repeated:

> On September 26, 1973, a U.S. Embassy official met with a high-ranking Pathet Lao official who stated that the Pathet

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[27] Information on the visit to Paris by the delegation from Fraser VFW Post and related correspondence provided by Mr. J. R. Sabo, a member of that delegation.

[28] Jean Sainteny, noted French authority on Indochina, told Dr. Kenny of the select committee staff that the primitive conditions under which the Pathet Lao operated would tend to cause them not to keep prisoners. He felt that Vietnam, rather than Laos, was where information would be following. See Part 2, p. 76 of Select Committee Hearings.

[29] Select Committee Hearings, part 2, pp. 75–86.

[30] Select Committee Memorandum for the Record of December 23, 1975.

[31] *Ibid.*

> Lao Central Committee in Sam Neua had been gathering information on U.S. MIA's, but that they would probably be able to provide information on only a small fraction of the 300 MIA's in Laos.[32]

Conversely, other evidence suggested that the Lao do not have a centralized system. To illustrate the other side of the coin, General Walter's used the example of the Spectre 17 case:

> The following evidence points in the other direction, implying that Pathet Lao forces removed from Sam Neua were not required to report such information to a central headquarters.
>
> A Lao cadre who witnessed the downing of a USAF AC-130 on December 21, 1972, and who later rallied to the non-Communist government, said that he had inspected the crash site, supervised burial of remains, and then sent reports to the province commander.
>
> The reporting was on his own initiative. He said he had no requirement to mark the crash site, the grave sites, or to report the incident.
>
> He said the Pathet Lao did not have an organized system for accounting for enemy crash sites and grave sites.
>
> This is considered a credible report.
>
> Perhaps it would be reasonable to conclude that the Pathet Lao may well have useful records of events which took place in the immediate vicinity of Sam Neua, but much poorer records of anything which occurred at a distance.[33]

After considering the results of its own inquiry and evaluating the report by General Walters, the select committee concluded that the Pathet Lao will not be able to provide extensive information on most MIA losses in Laos. Certainly they should be capable of telling what happened to those men known to have been alive in their hands and concerning whom American intelligence agencies have developed considerable information.

In the majority of losses in Laos, particularly along the Ho Chi Minh Trail and in the Plaine des Jarres, the Vietnamese may have information on many incidents and may be expected to know the burial sites for some of the missing Americans who were downed in areas proximate to Vietnamese troop units. It is not possible, however, to predict how many MIA's on whom either the Lao or the Vietnamese may be in a position to report. Whether or not the Vietnamese will choose to provide information on missing Americans lost in Laos, or whether they may ultimately furnish that information through the Pathet Lao or decide to withhold the information cannot be forecast.

CAMBODIA

The possibility is remote for obtaining any information on the 28 American servicemen and 7 civilians missing in Cambodia. Another 47 servicemen were KIA (BNR) in Cambodia.

After a four-year break in relations with Prince Sihanouk's Royal Government, the United States supported the new Government of the

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[32] Select Committee Hearings, part 3, p. 124.
[33] *Ibid.* Also see Chapter V.

Khmer Republic from July 1969 through its fall to the Khmer Rouge in April 1975. During that period efforts to gain an accounting for missing or captured Americans were fruitless in spite of the help given by Lon Nol's government. Other efforts were made on behalf of the United States by the International Committee of the Red Cross from 1971 through 1975, but no useful information was generated.

Perhaps the most aggressive efforts on behalf of at least one segment of missing Americans was that expended by the committee to Free Journalists Held in Southeast Asia. Mr. Walter Cronkite, well known CBS broadcast journalist, testified before the select committee on March 25, 1976, and described efforts by that international committee to obtain the release of information on 4 American and 17 other journalists known to have been taken captive in Cambodia and believed to have survived for some time after capture.[34] Mr. Cronkite revealed that fairly credible sightings had been reported in the case of several of the missing journalists up to late summer, 1973.

In the aftermath of the prisoner exchange of early 1973, Mr. Zalin Grant was commissioned by the Committee to Free Journalists to interview a large number of returning Vietnamese POW's. Mr. Grant, who had been an employee of *Time-Life*, reportedly interviewed about 3,000 of nearly 4,300 returnees, and in the course of those activities developed a number of reports that various journalists had been seen alive between 1970 and 1973. Perhaps the most significant information developed by the journalists was that many of their colleagues had been captured by the Viet Cong inside Cambodia and later turned over to the Khmer Rouge. None of these Americans returned alive. The experience of Mr. Richard Dudman, a correspondent with the *St. Louis Post-Dispatch*, differed in that he was captured in Cambodia in May 1970 by Cambodian villagers and turned over a few hours later to Vietnamese military forces. He was released 40 days later.[35]

Shortly after the Paris Peace Accords were signed, the U.S. Delegation to the Four Party Joint Military Team in Saigon called to the attention of the DRV and PRG reports in the news media that journalists of several nationalities continued to be held by Communist forces in Cambodia. The U.S. Embassy in Saigon had already sent a letter to the PRG and DRV delegations noting news reports that U.S. and other foreign persons were being detained in Cambodia, and seeking their assistance in obtaining information on the status and the return of those persons. Neither delegation responded to the letter. When approached personally, the PRG delegation advised that no information was presently available but that they would consult with their authorities. No further response was made.[36]

In October 1975, representatives of the Cambodian National United Front of Kampuchea (FUNK) visited the United Nations General Assembly. These two gentlemen, Norodom Sihanouk and Politbureau member Keat Chhon, were asked by an American correspondent about journalists missing in Cambodia. Both replied that "there are no foreigners and no prisoners in Cambodia." [37]

Since the Communist takeover in Cambodia extensive social upheaval and brutal restructuring of the Cambodian society have been reported by many neutral sources, and the Khmer Rouge generally refused to communicate with American officials. Except for a December 1975 statement to State Department officials at the United Nations that Cambodia holds no American prisoners, this communications blackout persisted. Numerous attempts by the select committee to meet with representatives of the new government went unanswered.[38]

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[34] Select Committee Hearings, part 3, pp. 138–146.

[35] Select Committee Hearings, part 3, pp. 147–149.

[36] Department of State Report, "Americans Missing in Cambodia."

[37] *Ibid.*

General Walters of the CIA evaluated the situation in these terms:

> The Government of Cambodia has repeatedly claimed that it has no knowledge of any U.S. PW's held in Cambodia.
>
> Given the extreme upheaval of all the national institutions in Cambodia, it is quite possible that this is a fact.
>
> Central records concerning PW's, and other captives of the Khmer Rouge may not exist today.
>
> At any rate, we do not have much hope of obtaining PW/MIA information from the present government.
>
> We have no reports of such central records.[39]

The select committee reluctantly concludes that, except for any possible cooperation by the Vietnamese, there is little chance that any significant accounting will be provided by the Cambodians, and it is even doubtful the Vietnamese possess any useful information.

OBTAINING AN ACCOUNTING

The select committee recognizes that an accounting must be obtained from the officials of the Indochinese governments. It was precisely for this reason that the committee went to such lengths in seeking first to establish its own relationships with officials of these governments and then to urge the executive branch to do the same. It has become apparent that an accounting can be achieved only when a better atmosphere of good will exists between the governments concerned.

On December 7, 1975, President Ford declared a new "Pacific Doctrine" and noted this very point:

> In Indochina, the healing effects of time are required. Our policies toward the new regimes of the peninsula will be determined by their conduct toward us. We are prepared to reciprocate gestures of good will—particularly the return of the remains of Americans killed or missing in action or information about them. If they exhibit restraint toward their neighbors and constructive approaches to international problems, we will look to the future rather than to the past.[40]

On December 18, 1975, the President elaborated on this point in a letter which Chairman of the Select Committee G. V. Montgomery discussed with DRV Prime Minister Pham Van Dong 4 days later in Hanoi:

> Our attitude toward the new regimes in Indochina is open-minded. We are prepared to look to the future, not to the past, in our dealings with them, and we are prepared to reciprocate

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[38] See Chapter 2 for select committee efforts to gain an accounting.

[39] Select Committee Hearings, Part 3, pp. 123–124.

[40] Honolulu, AP, as quoted in the New York Times, December 8, 1975.

> gestures of good will. This will be particularly true if they deal constructively with the problem of our dead and missing.[41]

The concept of building good will by exchanging gesture for gesture was thus seen by the committee as a necessary first step in gaining information on missing Americans. Important gestures made during the lifetime of the committee included, on the Vietnamese side, the release of 70 Americans trapped after the fall of the Republic of Vietnam, and the return of remains of five American servicemen. On the U.S. side, important gestures include the licensing of over $4 million in private humanitarian aid to Vietnam, and an offer to discuss normalization of relations. In addition, there were many governmental actions that might be interpreted as gestures, such as the September 1976 Vietnamese announcement that 12 American airmen had been killed in the incident of their loss, and the American decision a week later not to make Vietnamese entry to the International Monetary Fund a major issue.

There are certain negative developments as well. For example, the Vietnamese have excoriated the administration, and their response in April 1976 to the American offer to begin talks was more of a diatribe than an acceptance of the offer. Conversely, gestures made by the American Government were minimal, although the Secretary of State had assured the select committee that an appropriate gesture would be made in return for each separate gesture on the part of the Vietnamese.

The committee recognizes that it is not sufficient to approach the Indochinese governments only on a basis of reciprocal gestures. While this approach may result in an accounting for a few individuals, such as the three remains given the committee on December 21, 1975, in Hanoi, it could take many years with no full or even substantial accounting ever resulting. Gestures, the committee feels, are more applicable to those who are incommunicado; they are no substitute for direct discussions. In addition, the Logan Act prohibits the Congress from negotiating.[42] Therefore, upon completion of its December 1975 meetings in Paris, Vientiane, and Hanoi, the select committee urged the President and the Secretary of State to commence direct discussions with the Indochinese governments.

While it is neither the responsibility nor the desire of the committee to specify the exact details of discussions or to delineate the exact parameters of the issues, the committee does feel an obligation to report what the issues are and to express to the Congress major factors likely to affect those issues.

The committee, therefore, wishes to express the following principles which should guide Executive-level discussions and result in the kind of accounting which the families merit:

(1) The talks should seek a total rather than a piecemeal solution.

(2) The talks should stress the humanitarian nature of the accounting.

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[41] Select Committee Hearings, Part 2, p. 73.

[42] In the November 14, 1975, meeting with the select committee, the Secretary of State approved the Committee's plans to meet with the Vietnamese leaders.

(3) The United States should adhere to international law in seeking an accounting. Specific obligations deriving from international law must be fulfilled.

(4) The procedures established to conduct these talks must support the goal of an accounting. A mechanism should be established whereby an accounting would be facilitated.

(5) The United States should seek an accounting in the context of normalizing relations with the governments which can provide an accounting.

The rationale for each of these points follows:

An extended series of gestures, in which MIA information and remains are exchanged for diplomatic, economic, or other concessions is patently unsatisfactory for the United States to pursue. Both the earlier French and the current American experience militate against such a course of action.

In testimony before the select committee, Ms. Anita Lauve pointed out that the French were still receiving remains from Vietnam in 1976, 25 years after their involvement in Indochina came to an end. It is also significant to note that the French have not received remains or reports on MIA's or POW's. The 3,000 remains repatriated to Metropolitan France from 1954 through 1976 were all servicemen who had "Died for France" while in Indochina and were buried in French cemeteries under French administration in Indochina. The unsatisfactory nature of the French experience is detailed in chapter 4.[43]

The American experience with reciprocal gestures does little to reassure the families and friends of the missing that America can do any better than did the French. The Vietnamese announced in April 1975 that they had three remains of American pilots. Eight months later, they made public the fact that the remains of two Marines could be returned; these were the men killed in Saigon on the last day of official American presence in Vietnam. Another eight months elapsed before the Vietnamese furnished any additional information, i.e. the grossly inadequate statement that twelve named flyers had been killed while attacking North Vietnam in 1965 through 1968. That the Vietnamese can provide confirmation of the deaths of the twelve individuals in question makes it clear that they can also account for many more pilots shot down after 1968 when they at last began to appreciate the value the United States put on recovery of its POW's and MIA's. The calculatedly slow rate at which the Vietnamese have provided information or remains makes it clear that it would require years to complete an accounting on a gesture-for-gesture basis.

Another factor looms importantly in any assessment of accounting on a reciprocal basis. The American people perceive such a process as blackmail. The reaction of the National League of Families of American Prisoners and Missing in Southeast Asia was quick and pointed in this regard. The League's official position was made public during the same week that a vote was expected in the United Nations on Vietnamese admittance to that body. The statement read:

> The National League of Families of American Prisoners and Missing in Southeast Asia is adamantly opposed to ad-

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[43] Also see Select Committee Hearings, part 4, pp. 1–20 and 151–233.

> mitting Vietnam into the United Nations, particularly in view of their callous, cruel and inhumane release of the names of 12 Americans whom they claim died in the war. We totally reject this calculated regurgitation of information, previously provided to them by our own government, as an accounting. It is a shabby and transparent effort to soften U.S. attitudes toward normalization of relations with their country. Only this morning, Hanoi released another statement on their humanitarianism in providing the 12 names, without any offer of additional information or remains. This ploy to obtain diplomatic advantage can only be used to point out the real necessity for direct negotiations to actually find out what happened to these 12 and over 1,300 other Americans still being held or missing in Indochina. By violating the provisions of the U.N. resolution on accounting for missing persons, Hanoi has once again proven to the world their total disregard for basic humanitarian principles, while claiming they understand the feelings of the families in this matter. Let them prove it by providing information and remains on all missing Americans, already withheld for years.[44]

Secretary Kissinger stated similar sentiments in May 1969 when he said:

> The North Vietnamese believe they can blackmail us by using the remains of Americans to extort economic and other aid . . . we will not be blackmailed . . . we will not attach any conditions to the missing in action.[45]

The Secretary of State's earlier reference to blackmail has now obviously been applied by the League of Families and others to the September 1976 release of 12 names by the North Vietnamese. These interpretations, when viewed in light of the French experience, make it abundantly clear that while gestures may serve to open doors, they are no substitute for direct discussions, and only the latter can lead to resolution of the MIA problem.

HUMANITARIAN CONSIDERATIONS AND PRINCIPLES

In American minds, the subject of accounting is a matter of humanitarian principle rather than contractural obligation. The Vietnamese have cloaked their occasional return of remains or release of American citizens from Saigon as humanitarian gestures, but they have not been moved by humanitarian principles to provide information and return all remains. Instead, the Vietnamese have used the issue like moves on a chessboard to gain position and create illusions, all the while keeping their eye on their major objectives of reconstruction aid and normalization of relations.

There are two sides of the coin, however, and the Vietnamese have voiced their own perception of the accounting issue. To them, the question of reconstruction aid is also one of humanitarian principle. *Nhan*

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[44] National League of Families press release, September 11, 1976.

[45] Interview with the Honorable Henry A. Kissinger by Barbara Walters, NBC "Today Show", May 16, 1976.

Dan, the newspaper recognized as spokesman for the Government in Hanoi, has carried the public comments of Vietnamese leaders, and it is clear that they view reconstruction aid as an iron-clad obligation on the part of the United States. That view was stated personally to the select committee during its December 1975 visit to Hanoi. The Vietnamese presented an interesting thesis in that regard. Having been informed in Paris earlier by the select committee, and again in Hanoi, that the American people and Congress would not approve grant aid, the Vietnamese apprised committee members of the February 1973 correspondence from former President Nixon.[46]

The Nixon message allegedly referred to $3.25 billion as the approximate requirement for reconstruction of the North based on a preliminary study. Only partly in jest, the committee mentioned to the North Vietnamese spokesmen in Hanoi that they had acquired at least $3.25 billion worth of U.S. equipment upon the fall of South Vietnam in April 1975.

Several Vietnamese spokesmen have since averred that the precise amount for reconstruction is not of great importance, but that the principle of Article 21 of the Paris Peace Agreement must not be ignored. If those claims are true, the problem is less severe than it otherwise might be. If the claims are merely shallow inducements to talk, and behind the inducements there lies a rock-hard position of inflexible demand for substantial grant aid, the problem appears insoluble in the present context, and the hope for an early accounting must diminish.

INTERNATIONAL LAW

Adherence to international law can provide the United States a legal and moral basis to command world opinion in support of gaining an accounting for missing Americans. The Geneva Convention Relative to the Treatment of Prisoners of War is a primary document in this area. The Democratic Republic of Vietnam was a signatory to that Convention in 1957, although he DRV took exception to Article 85 by stating that POW's who had been convicted of war crimes or crimes against humanity would not benefit from the convention.[47] Previous regimes in Laos and Cambodia expressed no reservations concerning the Convention, and without official renunciation it may be inferred that they are bound by the Convention which clearly states that "prisoners of war shall be released and repatriated without further delay after the cessation of active hostilities." [48]

The Agreement on Ending the War and Restoring the Peace in Vietnam also provides a legal basis for demanding an accounting. Reference to this comprehensive document is particularly necessary because of Vietnamese reservations to the Geneva Convention on the status of prisoners. American negotiators, aware of the DRV's earlier charges that downed airmen were war criminals, made sure that the

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[46] Deputy Foreign Minister Phan Hien was the spokesman. Referring to the text of the Nixon message. he said, "We only wanted you to know." Memorandum for the Record of December 22, 1975, in select committee files.

[47] "The Democratic Republic of Vietnam declares that prisoners of war prosecuted and convicted for war crimes or for crimes against humanity, in accordance with the principles laid down by the Nuremberg Court of Justice shall not benefit from the present Convention, as specified in Article 85."

[48] Article 87. "The Geneva Convention Relative to the Treatment of Prisoners of War", in Committee on Foreign Affairs Print 44–9680, May 1970, pp. 34, 45, 80, and 81.

1973 peace accords provided for the return of all prisoners, even if some might have been tried and sentenced by an enemy court.[49]

The Paris Agreement constituted the most comprehensive document of its kind dealing with the POW/MIA issue. The detailed requirements of Article 8 clearly delineate the responsibilities of all parties to that conflict, stating:

> (b) The parties shall help each other to get information about the military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

Article 16 of the Accords established the Four Party Joint Military Commission (FPJMC) to implement the exchange of prisoners within the 60-day period specified in the agreement. The FPJMC was to be succeeded by the Four Party Joint Military Team (FPJMT) charged with locating and disinterring remains and exchanging information on the missing. In that sense the mechanism for resolving the MIA issue in Vietnam was created by the accords as a separate entity.

If only the Paris Agreement is considered, the legal basis for an accounting from the Lao and Cambodians is more tenuous than it is with Vietnam. It was the understanding of the American negotiators that the DRV would hold itself responsible on behalf of the Lao for exchange of POW's, but the return of remains and provisions for information on the missing would require separate understandings.[50] The Vietnamese took no responsibility whatever for Cambodia and insisted the United States must deal directly with the Pathet Lao to get information desired on MIA's in Laos.[51]

In the case of Laos, there is a more specific basis for expecting an accounting. The two Lao administrations that existed in 1973 signed the "Agreement on the Restoration of Peace and Reconciliation in Laos" on February 21, 1973. Article 5 of that agreement provided that both sides would return all captured persons within 60 days of the formation of a coalition government which was not formed until April 1974, and that after POW's were returned, each side must report information on persons who disappeared during the war.

The present government of Cambodia has acknowledged no specific legal obligation deriving from the Paris Agreements of 1973 regarding prisoners or missing. It is not possible in the present environment to predict what course of action the uncommunicative government of Cambodia will follow.

In addition to the above explicit and implicit obligations, the Indochinese governments may be bound by the legal expression of the United Nations General Assembly resolution stating the humanitarian need for their providing information on prisoners and mission.[52]

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[49] Article 6 of the Paris Agreement Protocol states, "The detaining parties shall not deny or delay their (all captured persons) return for any reason, including the fact that captured persons may, on any grounds have been prosecuted or sentenced."

[50] Aldrich Memorandum, see Chapter 6.

[51] Secretary Kissinger did say, however, that "We have been told that no American prisoners are held in Cambodia." News conference, January 24, 1973.

[52] United Nations General Assembly, A/Res/3220 (XXIX), November 14, 1974. Pertinent passages are quoted in Chapter 6.

Implementation of legal requirements is another matter entirely. One argument claims that the articles dealing with MIA's stand by themselves and should be implemented without regard to other articles of the same agreement. The counter argument is that agreements in their entirety must be implemented. Under this thesis, portions dealing with MIA's are not applicable unless all other obligations are met. A case in point is the linkage between articles 8(b) and 21 of the Vietnam agreement signed in Paris. There is nothing in the accords themselves specifically linking these two provisions. Nor, as indicated in chapter 6, was there any special linkage of these articles from February 1973 until May 1975. With the fall of the Republic of Vietnam, however, Hanoi began linking their accounting for the missing Americans under Article 8(b) with the demand for American war reparations under Article 21.[53]

Article 21 called for the United States to help "heal the wounds of war", but the healing balm was not specified in the agreement or in any protocol. Rather, the contribution expected of the United States was a matter of separate correspondence between the President of the United States and the Premier of the Democratic Republic of Vietnam, and its details were left to the Joint Economic Commission (JEC). The JEC convened in Paris in 1973, only to disintegrate in July of that year. Since the JEC conclusions were never signed, they have no legal basis, and whatever obligations devolve upon the United States remain obscure. The peace accords were signed, however, and constituted a legal and binding claim for an accounting. Whether they still constitute such a claim depends on whether the agreement has been dissolved in accordance with principles of international law.[54]

An analysis by the Senate Legislative Counsel's Office concluded that a material breach of a treaty by a contracting party gives rise to a right of the aggrieved party to denounce obligations under the agreement in whole or in part.[55] In this sense the treaty might be voided by either party based on (a) U.S. refusal to aid in reconstruction of Vietnam, (b) former U.S. support of the Thieu regime in the Republic of Vietnam, (c) Vietnam's refusal to account for missing Americans, and (d) North Vietnam's 1975 attack against the Republic of Vietnam.

During his November 1975 meeting with the select committee, Secretary Kissinger stated that, due to many violations by the North Vietnamese, he considered the Paris Agreement to be dead. In a similar manner, North Vietnam accused the United States of violating the agreement. Hanoi has insisted on selective applicability of the accords, focusing not on the question of violations but on changed conditions in post-war Indochina. Those changed conditions resulted from military takeover, a material breach of the Peace Agreement. Therefore, the American position may also call for selective applicability of the accords. The relative degree and consequences of violations by each party should be assessed in considering current applicability of the Agreement.

Despite the problems involved, the select committee contends that there is sufficient legal basis for marshalling international support for an accounting by the Indochinese governments and strongly urges adherence to international law by both sides.

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[53] "FPJMT Negotiating Chronology", Negotiations Division, U.S. Delegation to the FPJMT, July 23, 1974, and FBIS Vietnam 1973–76.

[54] Grenville, *The Major International Treaties*, 1914–1973, p. 7 (1974).

[55] "The Paris Agreement—Effect of Violations", January 22, 1975.

NORMALIZING RELATIONS

It is clear that further information or receipt of remains depends on the status of normalization of relations between the United States and the countries involved. The select committee, therefore, urges the Administration to enter into serious discussions with the Vietnamese and Lao Governments promptly, and with the Government of Cambodia as soon as an opportunity to do so presents itself. These discussions should be aimed at normalizing relations. The administration should stress the humanitarian nature of the accounting and be prepared to take reciprocal humanitarian actions in balancing the respective parties' interests. Any assistance to Vietnam, Laos, or Cambodia should also be (1) conditioned on an accounting, (2) irrelevant to war reparations, and (3) humanitarian rather than economic in emphasis.

Normalization can, indeed find a basis of acceptance on the five principles of peaceful coexistence agreed to by nonaligned nations, including the Democratic Republic of Vietnam, in Bandung, Indonesia in 1955. In an April 23, 1976, press conference, DRV Foreign Minister Nguyen Duy Trinh expressed the hope that the countries of Southeast Asia would be guided by the Bandung principles, which include respect for fundamental human rights and recognition of the equality of nations. Likewise, article 22 of the Paris Agreement calls for "a new, equal and mutually beneficial relationship between the United States and the Democratic Republic of Vietnam."

These expressions should guide the Administration in a process of normalization based not on unequal and humiliating war reparations but on agreed principles of equality and mutual benefit. In this way, resolution of the POW/MIA issue would indeed heal, rather than prolong or reopen, the wounds of war.

SATISFACTION WITH AN ACCOUNTING

Throughout a long and agonizing period, the families and friends of missing Americans have hoped that most could be accounted for by the hostile powers. The demand for an accounting has been the principal thrust of the National League of Families of Prisoners and Missing in Southeast Asia, and it has been articulated in the form of resolutions by most veterans' organizations. This chapter has pointed out difficulties in gaining a full and complete accounting, kinds of accounting which might be expected, and factors affecting the expectation for that accounting. It is important, also, to consider whether an optimum accounting might satisfy most next of kin.

The primary issue in any accounting is the return of all prisoners of war. Live Americans who might still be held by Indochinese governments were, therefore, priority targets for all accounting efforts. Rumors that some POW's are still held somewhere in Indochina continue to be received, but in spite of exhaustive investigation of each such rumor, to date all such rumors have been unsubstantiated and uncorroborated and patently based on third- or fourth-hand information. Some families, relatives, and friends of missing men continue to hope that they are alive and will someday return.

The leaders of Vietnam, Laos, and Cambodia have stated publicly that they hold no prisoners of war, that all were returned in the exchange of POW's that took place in 1973. Exhaustive investigations by the American intelligence services and by the select committee have failed to produce any evidence that any Americans are still being held against their will. The committee, therefore, reluctantly concludes that no Americans are still held as POW's and the focus must be on gaining an accounting for men who lost their lives in battle or after capture.

Return of remains is prima facie evidence of death. Although no one can predict with confidence how many identifiable remains may ultimately be recovered, Department of Defense experts believe that only a small percentage of the missing might eventually be accounted for in this positive fashion.

The Vietnamese returned 28 remains from March 1974 through September 1976. All were positively identified by the Central Identification Laboratory before being returned to the United States. In general, the families of those 28 men are satisfied that their missing member is dead and the trauma associated with missing status is terminated. In one case, however, the remains of a Navy officer who died in captivity in North Vietnam, and whose remains were returned in March 1974, were still unclaimed in October 1976. His skeletal remains were identified by experts at the Central Identification Laboratory and the Smithsonian Institution. The Navy has closed the case and a determination of death has been made, but the primary next of kin refused to accept the remains. The Secretary of the Navy finally gave notice in October 1976 that, unless otherwise requested by the next of kin within 30 days, the remains would be interred in Arlington National Cemetery.

When one cannot accept irrefutable evidence, it follows that other less conclusive forms of accounting will fail to an even greater degree to satisfy the expectations of many of the families. Any accounting the United States gains will be suspect or unsatisfactory to various interested parties.

A more recent example of an accounting that is not fully satisfactory can be found in the December 1975 report by the Government of the People's Republic of China. Vice Premier Teng gave to President Ford the PRC's official response to requests by the U.S. Government for information on several Americans missing from 1952, the Korean police action, through 1968, hostilities in Vietnam. The Chinese acknowledged shooting down U.S. aircraft in 6 separate incidents involving 29 Americans. Three of those men had already been returned alive and 2 remains had been recovered. The December 1975 report confirmed the deaths of 4 but stated that no information was available on the remaining 20. It seems unlikely that any further data will be forthcoming from the PRC and that the United States Government now possesses all of the information that can be expected in these cases. Projecting this example into possible future accounting by Indochinese Governments, it can be assumed that many of the reports will be similar to those provided by the Chinese, and that denial of knowledge will constitute the only information received.

This case brings into focus one of the principal anomalies that exists with respect to an accounting. In perhaps half the cases involving missing Americans, the case files give no evidentiary basis for measuring the quality of any report of accounting furnished by a formerly hostile power.

As Indochinese governments begin to provide information on our missing Americans, it may be possible to assess their forthrightness by examining carefully those cases in which they give information but where our own records are bare. Favorable responses in this area will tend to indicate that they are being forthcoming and responsible. Merely repeating back to American authorities what has been provided them in case summaries would indicate that they are not cooperating honestly and that their responses cannot be trusted.

On September 6, 1976, the Paris Embassy of the Socialist Republic of Vietnam released the names of 12 American pilots they claimed had died at the time of the incidents of their loss. The Vietnamese had first reported that information to the U.S. Embassy in Paris, but they timed their news release, noon Paris time, with early morning radio and news releases in the United States—6:00 a.m. Purportedly, the information that these 12 Americans had died in incidents occuring in 1965 through 1968 was recent information obtained by the agency formed to gather data and mark graves of missing Americans.

American analysts believe that the Vietnamese had held that information since the incidents of loss; the information was not new. Indeed, it added nothing to the data on hand except corraboration by the Vietnamese that the individuals are dead. No details were furnished. Further, the announcement was timed to coincide with deliberations in the United Nations concerning the recent application for membership in that body by the Vietnamese. The next of kin initially expressed some relief that their ordeal seemed ended, but on reflection most perceived that no real accounting had been rendered. Relief was replaced with outrage.[56]

The select committee is of the opinion that the Vietnamese can, and eventually will, provide additional information on the 12 men. As suggested by the Committee Chairman a few hours after the SRV news release from Paris, the Vietnamese probably have the remains of those Americans and surely possess considerable information about them. A photograph of the Service identification card of two of the men was published in a Communist newspaper at the time of their loss.[57]

In these cases, reports confirming death clearly do not constitute an adequate accounting. If any accounting the United States receives will be unsatisfactory to interested parties, there must be a final arbiter. It is the conclusion of the select committee that the final arbiter in judging the adequacy and accuracy of any accounting must remain the parent service. The information contained in the individual casualty files will be the basis for evaluation reports received for Indochinese officials.

In a significant number of the cases, the truth or falsehood of any report can be judged with confidence. Analysis of still other cases will depend on the general assessment of the Indochinese responses as to their accuracy and completeness.

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[56] Mr. Alexander C. Ducat quoted in the *Washington Star*, September 7, 1976, and press release by Mrs. Virginia Capling in National League of Families of American Prisoners and Missing in Southeast Asia release of September 11, 1976.

[57] Select Committee Hearings, part 3, p. 246.

U.S. Handling of Communist POW's

During United States involvement in Indochina, the U.S. Army was the Joint Chiefs of Staff executive agent for captured enemy prisoners of war. In that capacity, the Commanding General, U.S. Army, Vietnam (CG, USARV) was responsible for receipt, evacuation, accountability, transfer to the Government of Vietnam (GVN) and overall treatment of prisoners captured by U.S. armed forces. The Army also provided military advisory activities at the 6 POW camps maintained by the GVN.

By an agreement concluded early in 1966, the GVN armed forces had responsibility for custody of all enemy POW's captured by GVN, United States, and Free World Military Assistance Forces (FWMAF). That agreement was authorized under the provisions of Article 12, General Convention Relative to the Treatment of Prisoners of War (GPW).

From the time Viet Cong or North Vietnamese POW's were captured by U.S. units until their transfer to a GVN POW camp, they were under the supervision of U.S. forces. A POW advisory team, composed of military police personnel, was assigned to each camp to advise and assist the South Vietnamese camp commander and to monitor the treatment of POW's. The camps were generally operated in accordance with the requirements of the Geneva Conventions, with emphasis placed on humane treatment, reporting names of POW's to the International Committee of the Red Cross, encouragement of letter writing and the prevision of recreation and vocational training. POW's who performed certain work authorized by the Geneva Conventions were given monetary credit for their labor. The fact that these camps were operated in accordance with international law was verified by frequent inspections by the ICRC whose reports were highly favorable.

However, there were occasional individual instances of misconduct. Army Criminal Investigation Division reports revealed that most incidents of POW maltreatment occurred in forward combat areas during the heat of combat. Certain other incidents occurred at remote locations such as Con Son Island where some POW's were kept in tiger cages. Incidents of that nature were contrary to U.S. policy and violated the Geneva Conventions and international law. Most violations were vigorously investigated and personnel responsible were held accountable for their actions.

In U.S. tactical operations, enemy battlefield dead were turned over to local indigenous commanders or village or hamlet chiefs for burial. In that sense, Vietnamese made or kept what records existed and only they can describe the grave sites. Similarly, all records on POW's and civilian internees turned over to the GVN by United States and FWMAF forces were the responsibility of the GVN.

A unique situation was created when North Vietnamese forces drove south and seized all of the Republic of Vietnam. By so doing, the DRV took custody of the records, facilities, organizations, witnesses, and grave sites relating to Communist soldiers killed or captured during hostilities. They now control all of the factors necessary to establish the most comprehensive accounting for their own POW's and MIA's.[58]

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[58] The Central Identification Laboratory in Hawaii still has custody of 31 unidentified remains of Vietnamese, which the committee has offered to return to them.

THOUGHTS FOR THE FUTURE

The problem of gaining an accounting for missing Americans was new and excruciating after the war in Vietnam. The U.S. Government must seek to avoid a similar agony in the future. In particular, the French Experience must not be repeated. Unfortunately, there is no simple solution.

ELIMINATE THE MIA CLASSIFICATION?

It has been suggested that the "Missing in Action" be dropped; that a fighting man either be classified killed or prisoner. When queried about that suggestion, the Operations Director of the International Committee of the Red Cross replied, "But they are missing aren't they?"[59]

The classification MIA was conceived mainly to provide sufficient time for an individual to straggle back to his unit if lost during the heat of battle or to be identified as a bona fide POW of the enemy, thus avoiding any unnecessary and misleading presumption of death. During World War II, the enemy failed to cooperate and did not report on individuals about whom they had knowledge. As a consequence, the American military services found it necessary to continue men in missing status beyond the one-year period intended by law.

It was never intended that personnel be continued in MIA status indefinitely. In the past, missing personnel who failed to be returned or accounted for in the immediate aftermath of hostilities were presumed to have died at the time of their loss or in some unknown circumstances thereafter. No one presumed to have died. None is known to have returned alive later.[60]

There have been several moves to prevent changes in status from MIA to presumed dead. The principal argument in support of such a position is the mistaken belief that the Indochinese governments will not account for any American whose status has been determined on the basis of information already on hand and who is now considered to be dead. In responding to occasional charges that financial considerations may underlie the motivation to prevent further status changes, several individuals have suggested that the tax-free pay and allowances disbursed to dependents of MIA's be terminated but that the MIA status be continued to assure that an accounting will be forthcoming. The Vietnamese would surely see through such an administrative subterfuge if such a distinction had any relevance to them.

Public law provides for the disbursement of an MIA's pay and allowances, either to his dependents or to his own account, for as long as he is classified MIA (or POW). Public law also specifies the emoluments to which a dependent survivor is entitled. Under existing law, it is not possible to terminate or change the benefits prescribed. In the select committee's view, there is no reason to seek a change in the law to accommodate an argument that has no basis in fact. The record of

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[59] Comment to Chairman G. V. Montgomery by Jean Pierre Hocke at ICRC in Geneva, Switzerland, December 1975.

[60] During hostilities in Vietnam, nine Americans declared KIA were later found to be POW's. The distinction is that they were declared dead at the time of their loss—not presumed dead later.

Communist accounting for missing Americans, while leaving much to be desired, shows clearly that the administrative status in which the U.S. Government carries an individual has no bearing on whether the Communists report the circumstances of his loss or return his remains.

Date	Accounting	Status
March 1974	DRV repatriated 23 remains	23 Died in Captivity.
December 1975	DRV returned 3 remains	2 Presumed Dead. 1 Missing in Action.
December 1975	PRC reported on 24 Americans lost in or near China	21 Presumed Dead. 3 Missing in Action.
December 1975	PRC returned ashes of 2 men lost in China	1 Presumed Dead. 1 Missing in Action.
February 1976	DRV returned remains of 2 Marines killed in Saigon	2 Killed in Action.
September 1976	SRV reported the deaths of 12 Americans shot down over North Vietnam 1965–68.	1 Prisoner of War. 1 Killed in Action (BNR). 5 Missing in Action. 5 Presumed Dead.

The select committee has no significant complaint to register about provisions for pay and allowances in Titles 5 and 37, United States Code. Detailed comments on those laws are included in chapter 7. The principal shortcoming noted in this area derives from the optimistic and sometimes incomprehensible use of the MIA classification. This suggests that vastly greater care must be exercised in the future to protect next of kin from protracted suffering induced by unwarranted classifications as MIA or remaining as MIA when there is no evidence to support such a classification.

STRINGENT REQUIREMENTS FOR MIA CLASSIFICATION

The select committee's investigations reveal that field commanders often showed excess optimism in classifying personnel from their commands who had been lost. In circumstances where the chances of survival were remote and eyewitnesses reported their views that the missing member died, unit commanders sometimes overruled boards of inquiry or investigating officers and directed that the individual be listed MIA rather than KIA (BNR).

While not wishing to impose its retrospective legislative judgment on field combat commanders, the select committee feels impelled to suggest to the Department of Defense that casualty classification in Vietnam and Laos deserves careful review and that current regulations on this subject be given the most careful scrutiny. Of equal importance, Defense Department guidance in any future conflicts must be realistic and procedures for casualty classification must be supervised properly, not because of fiscal considerations but because humanitarian considerations argue against careless or specious classifications that foster empty hope. In these cases next of kin are led to believe that their relative is missing rather than dead and that he might somehow miraculously survive and return. Regardless of how grim the circumstances of loss might be and how strongly those circumstances point to the death of a member, next of kin cannot help but hope that their service member is alive rather than dead. Commanding officers who erroneously or optimistically classified their subordinates MIA did not render a favor to next of kin; instead they did a cruel misservice.

STATUS CHANGES DURING HOSTILITIES

Too often an accounting is equated solely with the capability of a hostile power to return remains or provide information on a casualty. The select committee noted that in a significant number of cases information has been acquired by American intelligence agencies that points clearly and ably to the death of a missing man. When that information is correlated and evaluated as probably true, there appears to be no bar to initiating a case review to permit a board of peers to assess the likelihood of death and to recommend that a presumptive finding of death be rendered if appropriate. There appears to be no valid reason to withhold such reviews during hostilities based on a remote possibility that other information might surface to refute what already is acceptable as strong evidence. The select committee does not encourage wholesale reviews or status changes for the convenience of the Department of Defense; rather, the main concern is with the missing person himself, followed by concern for his dependent next of kin. These latter concerns militate strongly in favor of basing a man's status on the most solid facts available and adjudicating that status when sufficient information becomes available. Oftentimes, the fact that there is no factual information to indicate a serviceman survived the incident of loss is adequate reason for a change in status from MIA to KIA (BNR).

CHANGES TO INTERNATIONAL LAW

The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts met in Geneva in 1974 in the first attempt by an international conference in a quarter of a century to create new law for protection of victims of war. The committee dealt with several matters relating to general care and protection of wounded and sick. U.S. Congressman Wilson, Congressional Advisor, introduced a new article calling for proper burial, return of remains and personal effects after hostilities, and exchange of information on MIA's.

In 1975 the committee met in its second session and the principle of maintaining and providing information on the missing and dead was agreed to without opposition, but further study and negotiation was deemed to be necessary.

In 1976 Congressman G. V. Montgomery (D-Miss.), Chairman of the Select Committee on Missing Persons in Southeast Asia was designated by the Speaker of the House as Congressional Advisor to the U.S. delegation to the international conference. Because of direct interest in the MIA problem, Chairman Montgomery attended several sessions in Geneva scheduled for that subject and made certain recommendations to the U.S. delegates concerning the MIA issue. When the conference adjourned in June 1976, the committee had agreed on the substance of article 20 which is now subject to ratification by member nations. That article calls for exchange of information on MIA's and the dead as soon as circumstances permit after hostilities, arrangements for post-war search of battlefields for the dead, and proper care and maintenance of graves with families having access after hostilities and with the right of repatriation of remains.

It is important to note that existing conventions dealing with the missing in action do not call for exchange of information on MIA's. The Paris Peace Agreement signed in January 1973 between Vietnam and the United States represented the first formal document calling for obligatory exchange of such information. That requirement is now expected to be ratified by the nations of the world to provide a legal, moral, and ethical basis for exchanging information on the missing. Like other international documents, the power of enforcement depends on the integrity of the belligerents or lies with the victor but at least the principle may be established on an international scale and prove useful in any future hostilities.

INDIRECT FUNDS TO VIETNAM

The select committee wishes to draw the attention of the administration and the Congress to the funds the Socialist Republic of Vietnam will be receiving indirectly from the United States through participation in international organizations. By virtue of its recent success in joining international organizations, Vietnam is expected to obtain indirectly at least $34 million in U.S. aid in 1977.

Although not yet officially admitted into the United Nations, Vietnam recently received aid commitments from three U.N. agencies and became eligible for aid from another. Moreover, in September 1976 the Socialist Republic of Vietnam succeeded the Republic of Vietnam as a participant in the International Monetary Fund, the World Bank, and the Asian Development Bank.

Although Section 108 of the 1976 Foreign Assistance Appropriations Act provides that no American funds shall be used for assistance to the Indochinese nations, it places no restrictions on the transfer of U.S. contributions to the general purpose funds of the above international institutions, where the American contributions are commingled with the funds contributed by other nations.

By comparing the proportion of total general purpose funds contributed by the United States, and the proportion of those funds expected to be drawn by Vietnam, it becomes apparent that the United States will be indirectly contributing at least $24 million in low-interest loans and $10 million in grants to Vietnam during the coming year.

In the continuing American efforts to gain an accounting, it is hoped that the administration and Congress will not lose sight of these indirect contributions to Vietnamese humanitarian projects.

CHAPTER X.—SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

SUMMARY

Pursuant to its congressional directive of September 11, 1975, the House Select Committee on Missing Persons in Southeast Asia conducted a thorough study and investigation of the POW/MIA problems resulting from the war in Indochina.

The select committee pursued its investigation on three distinct levels:

(1) Internationally, it met with top-level Indochinese officials in New York, Paris, Hanoi, and Vientiane, and conferred with American and foreign diplomatic officials in Peking, Bangkok, Vientiane, Paris, and Geneva. These efforts were supported by several meetings with the President and the Secretary of State.

(2) The committee conducted a wide range of hearings and meetings, holding 24 open hearings and 17 private sessions, hearing 51 witnesses and interviewing over 150 other parties.

(3) Finally, the committee pursued private investigations by examining scores of primary intelligence sources, such as the debriefings of returned POW's and individual POW/MIA casualty files, and by innumerable meetings with representatives of the National League of Families, Voices in Vital America (VIVA), family members, and with private citizens knowledgeable of POW/MIA matters. The committee also worked in close association with intelligence agencies to investigate reports and rumors concerning missing Americans.

These activities have had positive results. Little progress on the POW/MIA issue had occurred from 1973 through September 1975. Since the select committee was formed, considerable movement has taken place:

(1) More than 70 American citizens and dependents trapped in the fall of South Vietnam were permitted to return home during 1975–76;

(2) At the select committee's urging, the Secretary of State offered to begin direct preliminary talks with the Vietnamese to discuss the MIA issue. In November 1976 the first such meeting took place in Paris;

(3) The select committee received in Hanoi the remains of three Americans and was instrumental in the return of the remains of two others;

(4) Partly as a result of committee efforts, the Chinese returned the ashes of 2 deceased Americans and provided some information on 22 other Americans missing from the Korean war and the war in Vietnam;

(5) The Vietnamese announced the names of 12 American pilots claimed to have been killed during the war; and

(6) The select committee focused public and governmental attention on the MIA issue both in Indochina and at home.

Through its activities and investigations, the select committee has arrived at the following conclusions and recommendations:

CONCLUSIONS

NUMBER AND STATUS OF MISSING AMERICANS

That the results of the investigations and information gathered during its 15-month tenure have led this committee to the belief that no Americans are still being held alive as prisoners in Indochina, or elsewhere, as a result of the war in Indochina.

That 2,546 Americans did not return from the war in Southeast Asia.

That of these, 41 are civilians, including 25 missing or unaccounted for and 16 unrecovered dead or presumed dead.

That of the 2,505 servicemen, there are 1,113 killed in action whose bodies have not been recovered, 631 who have been presumed dead, 728 still listed as missing, and 33 still listed as prisoners of war.

SERVICEMEN STILL LISTED AS POW/MIA

That of the 33 still listed as POW, at least 11 were actually POW's who have not been accounted for by their captors, 6 were improperly classified as POW's at the time of their loss, and there is no evidence that the other 16 were actually taken prisoner.

That the widespread practice of classifying an individual as MIA at the time of loss, based mainly on not recovering the individual, led to many questionable classifications as MIA.

That the report of five Navy fliers declared KIA and later discovered to be POW's influenced some Navy commanding officers to excessive caution in classifying individuals as MIA.

That on occasion, service colleagues recommended a man be carried as MIA when they were privately convinced of his demise.

That a substantial number of still-active MIA and POW cases contain an evidentiary basis for determining death.

That the circumstances of loss, enemy procedures and practices, and the passage of a significant amount of time without information constitute strong circumstantial evidence that many missing Americans failed to survive the incidents of their loss.

That it is significant that in no case after World War II or the Korean war did a serviceman return alive who had been MIA and later presumed dead in accordance with the Missing Persons Act.

That were one or more missing Americans alive in Indochina, repeated statements since 1973 by Indochinese officials that no Americans are held as POW's militate against any returning alive from captivity.

That the average time these Americans have been missing is 9 years.

DESERTERS-DEFECTORS

That at least one deserter and one defector, the latter currently listed as a POW, were alive, in Indochina in the early 1970's and may still be alive, and that a small number of other deserters and civilians may still reside in South Vietnam.

REPORTS AND RUMORS

That the national intelligence community statement that there is no reliable evidence that any unaccounted for POW's/MIA's are still being held in Indochina represents a careful, studied assessment of all acquisitions of intelligence information during the past 15 years.

That this analysis has been confirmed by independent investigations by select committee members and staff

That many false sighting reports and rumors of captive Americans were fabricated by unreliable foreign sources, primarily in Indochina.

That this information contributed significantly to the confusion and suspicions of families, and nourished false hopes.

That the national intelligence community demonstrated an impressive capability to produce reliable information on POW's held during the war, and to identify reports fabricated by profiteers and opportunists.

AMERICANS IN SAIGON

That the major efforts to facilitate the departure of American citizens from Saigon were made by the select committee, the International Committee of the Red Cross, and the United Nations High Commissioner for Refugees.

EARLY DIPLOMATIC EFFORTS

That the provisions of the Paris Peace Agreement were well designed to bring resolution of the POW/MIA problem.

That the Department of State policy of "quiet diplomacy" prior to 1969 was ineffective in improving the treatment of American prisoners, whereas the "go public" campaign after 1969 produced favorable results.

That during the period February 1973 through April 1975, the Department of State made significant efforts to obtain from the Vietnamese and Lao an accounting for the missing and return of the dead.

That provisions for obtaining information on the missing and return of remains from Cambodia were never conclusively established.

THE PARIS AGREEMENT AS A BASIS

That Secretary of State Henry A. Kissinger considers the Paris Peace Agreement to be defunct as a result of cease-fire violations by the North Vietnamese and their eventual seizure of South Vietnam by force.

That the Socialist Republic of Vietnam has called for selective implementation of the Paris Peace Agreement, specifically article 21 dealing with American reconstruction aid to Vietnam, in exchange for POW/MIA information under article 8b.

That the Paris Peace Agreement now offers little promise as a basis for resolution of the MIA problem.

NORMALIZATION AND ACCOUNTING

That with some reluctance the Department of State has made quiet gestures toward the Vietnamese to help create an atmosphere of good will.

That the Department of State position supports normalization of relations with the Vietnamese in the context of American interests in Southeast Asia, with priority on obtaining an accounting for missing Americans. On occasion, belligerent public statements by Administration officials obscured this official position.

That any accounting will only occur as the result of government-to-government negotiations.

That international inspection teams are not now acceptable to the Governments of Indochina.

DEPARTMENT OF STATE—SHORTCOMING

That the Department of State failed to inform the select committee fully, prior to its visit to Hanoi, of the details of the correspondence between the Governments of the United States and Vietnam.

EFFORTS BY THE DEPARTMENT OF DEFENSE

That, compared to previous wars, the proportionate number of Americans missing in Vietnam is remarkably small.

That in Indochina the missing Americans total only 4 percent of the number killed in action, compared to 22 percent in World War II and Korea.

That the massive efforts of the American combatant forces to recover lost Americans were unparalleled in the history of our nation and contributed significantly to rescuing more than half of all aviators shot down in Indochina and recovering remains of numerous ground force personnel.

That the Department of Defense generally devoted generous attention to the needs and desires of POW/MIA next of kin.

That the classification system (POW, MIA, KIA, KIA-BNR) is sound in principle despite some shortcomings in practice.

DEPARTMENT OF DEFENSE INADEQUACIES

That, at the direction of the executive branch, the Department of Defense sometimes concealed actual loss sites during the "secret war in Laos", and that this misinformation later contributed to the mistrust expressed by some next of kin.

That the military security classification system figured prominently in the difficulties experienced by some MIA families, and contributed to unnecessary confusion, bitterness, and rancor.

That a few families of missing Americans have legitimate complaints against Government officials or agencies for imprecise or incomplete information made available to them. This unfortunate situation resulted mainly from interpretation of regulations, not from official policy (except for deliberate falsification regarding the "secret war in Laos").

That showing next of kin individual MIA case files maintained by the Joint Casualty Resolution Center (JCRC) was an important factor in stimulating distrust among MIA families. Differences were evident between service case files and those maintained by the JCRC, owing to the different purposes of these files.

That communications by the military services to next of kin were often phrased so optimistically as to encourage the belief that the missing individual was alive when objective analysis of available information would have suggested otherwise.

ADEQUACY OF CURRENT LEGISLATION

That Title 37, United States Code, with the procedural modifications requiring due process decreed by the U.S. District Court of the Southern District of New York (*McDonald* v. *McLucas*, 73 Cir. 3190) adequately protects the rights of the missing servicemen and their dependents.

That actions taken in all cases where a serviceman was listed as killed in action but later returned alive demonstrate that the constitutional rights and financial estate of missing individuals are well protected.

That the authority to adjudicate the status of a serviceman lost in combat or non-combat situations is properly vested in the military departments.

That this responsibility extends from the time of loss through whatever period is necessary to determine status.

That a court injunction followed by a DOD-agreed moratorium on unsolicited case reviews created an unrealistic situation in which the administrative status of a missing American depended primarily on the desires or actions of his primary next of kin.

That to expect or permit primary next of kin to determine when, or if, a case is to be reviewed imposes an immense, often unacceptable, psychological burden on the next of kin.

That many MIA wives urge that the Department of Defense exercise its responsibility for conducting case reviews rather than being forced themselves to initiate requests for such reviews at the risk of alienating MIA relatives.

GAINING AN ACCOUNTING

That a total accounting for all 2,546 Americans who did not return from Southeast Asia is not now, and never will be, possible.

That approximately 64 of those cases still listed as missing, and 345 of the KIA(BNR) cases may not be resolved by former enemy forces. Those losses occurred under non-hostile conditions, generally in areas in which no enemy forces were known to be operating.

That more than 400 remains of the declared dead are nonrecoverable due to circumstances, i.e. loss at sea, disintegration of an aircraft, et cetera.

That the administrative status of a missing American (KIA-BNR, POW, MIA, etc.) has no bearing on whether or not the Indochinese Governments can or will give an accounting.

A PARTIAL ACCOUNTING

That each of the governments of Indochina is capable of providing some information on the fate and place of burial of a number of missing Americans.

That the North Vietnamese have information on a large but undetermined number of aviators shot down over North Vietnam and along the Ho Chi Minh Trail in Laos, as well as information on some Americans killed, or once held, in other areas of Indochina.

That the Provisional Revolutionary Government had information on many Americans lost in air or ground combat in South Vietnam as well as the remains of 40 POW's who died in captivity. These data are now maintained by the Socialist Republic of Vietnam.

That the Pathet Lao may have information on at least five unaccounted-for American prisoners, as well as information on others lost in areas controlled by the Pathet Lao during hostilities.

That the Cambodians may have information on a few Americans lost in areas they now control.

That due to the passage of time, ravages of climatic conditions, and uncertainty of site location in some 54 percent of the incidents, crash site investigations could add only negligible information and a small percentage of identifiable remains beyond what the Indochina Governments are now capable of furnishing.

REALISTIC EXPECTATIONS

That the governments of Indochina may be capable of returning the remains of more than 150 Americans, including any located through crash site investigations.

That in addition to remains, the governments of Indochina can provide some information on other individuals and MIA-associated incidents.

That it is highly unlikely that the Indochinese Governments will permit non-indigenous teams of any kind to conduct field investigations. Information available through the JCRC would facilitate searches by Indochinese personnel and could result in some additional information or remains.

NEGOTIATING AN ACCOUNTING

That the Vietnamese are not committed to a specific dollar amount, such as the $3.25 billion referred to in the Nixon-Pham Van Dong correspondence of February 1, 1973, as their minimum acceptable demand for a full accounting. Their reference to this figure, in conjunction with the MIA issue, could produce a very high initial demand.

That in their seizure of South Vietnam, the North Vietnamese acquired well over $3.25 billion in American military supplies and industrial materials.

That the reconstruction materials specified in the working papers of the Joint Economic Commission probably reflect some of the initial demands the Vietnamese will make in talks with American negotiators.

That the French Government's arrangements with the Vietnamese for repatriation of remains from the 1946–1954 war in Indochina have dragged on for over 20 years. Such a program would be patently unsatisfactory to the American people.

That the Congress and the administration will not agree to any conditions even faintly resembling blackmail in order to gain an accounting.

That the investigation and documentation developed by the select committee should be made available to the incoming administration so as to facilitate informed policy determinations on POW/MIA matters.

EVALUATING AN ACCOUNTING

That to be satisfactory an accounting must be comprised of the return of all available remains known to be American, personal property, and available information concerning individuals and incidents.

That the Department of Defense has demonstrated a continuing capability to identify remains of Americans missing from previous wars whenever new information is received to focus this effort.

RECOMMENDATIONS TO THE DEPARTMENT OF DEFENSE

CASE REVIEWS

That, inasmuch as the select committee requested a moratorium on case reviews during its tenure, the military secretaries should immediately reinstitute case reviews in the manner prescribed by public law.

That prior to scheduling a case review, the review board make a record search of the individual's files maintained by the parent service, Joint Casualty Resolution Center, and Defense Intelligence Agency to assure that all information relating to the individual's loss and status is contained in the case file that will be used at the hearing and is available in advance of the hearing to the primary next of kin.

That this information include copies or appropriate extracts of all classified reports having any possible bearing on the particular case.

CLASSIFICATION SYSTEM AND CLASSIFIED DOCUMENTS

That the Department of Defense review the implementation of the casualty classification system (MIA, MIA-Presumed Dead, KIA, KIA–BNR) and promulgate careful guidelines for classifying individuals in a missing or prisoner status during any future conflicts.

That the Department of Defense develop and promulgate regulations or instructions for more rapid declassification of intelligence information as it pertains to casualty information, to assure that such information is available as soon as possible, in original or extract form, in the individual's case file maintained by the parent service.

That the Department of Defense develop now, for us in any future conflicts, a standing operating procedure to centralize POW/MIA policy and associated administrative, operational, and intelligence activities at the very outset of such hostilities.

CONTINUING AND FUTURE ACTION

That the Department of Defense ensure the retention of a viable capability to collect, collate, evaluate, retrieve, and disseminate intelligence information on Americans missing in Indochina.

That this capability include retaining in active status the individual case files and applicable general intelligence files relating to all Americans lost in Southeast Asia and not accounted for by the Indochinese.

That the Department of Defense maintain the capability to monitor and evaluate any accounting made by Indochinese governments with respect to accuracy, completeness of reports on individual cases, and the extent of reporting on all casualties lost within each of the countries of Indochina; and to accomplish identification of remains.

That whenever it is opportune, appropriate American agencies continue to provide the Indochinese governments with bilingual case summaries, developed by the Joint Casualty Resolution Center, on all missing Americans.

That only the parent service casualty file be shown to next of kin.

That this file be thoroughly examined at regular intervals by appropriate responsible personnel to ensure that it contains all information pertaining to the status of the missing person.

That DOD consider means, with the assistance of the Department of Justice, to publicize, expose, and, if possible, bring legal action against those criminally seeking to extract money from POW/MIA families.

FUTURE CONFLICTS

That in any possible future conflicts, the Department of Defense assure that a highly trained rescue force, similar in concept to the Son Tay assault force, be readily available in the combat zone to exploit operational intelligence as it relates to captured personnel.

That in any possible future conflicts the Missing Persons Act be fully implemented by the Military Secretaries with respect to rendering presumptive findings of death wherever appropriate at the 1-year mandatory review and specifically within 1 year after cessation of hostilities and the recovery of prisoners.

That in any future conflict, the military services, in their communications with the next of kin, ensure a realistic assessment of the individual's case, including the following:

(1) That if the probability of survival is slight, this fact should be made clear in communications with the family.

(2) That service communications should not encourage the belief that the missing man is alive without a reasonable basis for such a belief.

That automatic promotions of POW/MIA's to ranks held by contemporaries be withheld during any future hostilities and awarded only to those returned servicemen who merit promotion.

MEMORIAL

That a suitable memorial, inscribed with the names of all unaccounted-for Americans, be erected in Arlington National Cemetery to commemorate the sacrifice made by these brave Americans.

Recommendations to the Department of State and Other Agencies

CASE REVIEWS

That the Department of State, in conjunction with appropriate governmental agencies and in accordance with Title 5, United States Code, immediately reinstitute individual case reviews of missing American civilians.

ACCOUNTING

That the U.S. Embassy in Vientiane continue to explore ways to obtain an accounting from the Lao Government.

That continued efforts be made to establish communication with the new Cambodian Government for purposes of gaining an accounting.

That any normalizing of relations with the nations of Indochina be predicated upon as complete and accurate an accounting as possible for missing Americans, including return of all recoverable remains, either prior to or concurrent with such normalization.

That the following principles should guide these Executive-level discussions with the Indochinese nations:

(1) The Vietnamese have a humanitarian obligation to account for the missing regardless of the status of the Paris Peace Agreement.

(2) A mechanism such as a joint commission or liaison office should be established in Vietnam, whereby an accounting would be facilitated;

(3) The talks should seek a total, rather than a piecemeal, solution;

(4) The talks should emphasize the future of American-Indochinese relations, rather than their past; and

(5) The Department of State should consider the possibility of humanitarian aid, but not war reparations, in discussions of the foreign policy aspects of this issue.

That the Department of State incorporate the expertise of appropriate Department of Defense elements, such as the Joint Casualty Resolution Center and the Defense Intelligence Agency, in talks with the Indochinese governments.

That in the event the Vietnamese, Lao, or Cambodians continue in their refusal to provide an accounting under reasonable negotiating conditions, the Department should raise the issue in all possible international forums.

That international organizations—such as the International Committee of the Red Cross and the United Nations—be asked periodically to intercede with the governments of Indochina to provide an accounting.

Recommendations to the United States House of Representatives

FOR IMMEDIATE ACTION

That, in order not to lose the valuable experience and information gained by the select committee, a viable capability should be assured within the International Relations Committee of the U.S. House of

Representatives for overseeing those negotiations and other activities directed toward gaining an accounting for the missing Americans.

That appropriate records and, if needed, staff personnel of the select committee be transferred to the International Relations Committee to assure the continuity of an oversight capability.

FOR FUTURE ACTION

That Congress assure that any concessions granted to the Indochinese governments in return for information on missing Americans or return of their remains be accompanied by safeguards that guarantee full compliance by those governments with respect to an accounting.

CHAPTER XI.—A TRIBUTE

This report would be remiss if it did not end with a tribute to those Americans who have never returned from Indochina after having left their loved ones to participate in what became the most unpopular war in this nation's history.

Most of the "Missing-In-Action" or "Prisoners of War" were volunteers, career servicemen. They, like the draftees with whom they joined hands in mortal combat, strove to do their best under the most adverse of conditions. While each missing American was unique in person and circumstances of loss, a commonality of dedication and sacrifice for others stands out in bold relief as their mark of distinction.

The overwhelming majority of MIA's and POW's became so because they were fighting in isolation from the main body of troops which they were protecting. Airmen made up 81 percent of those unaccounted for. They were lost bombing North Vietnam's warmaking potential; interdicting the flow of men and supplies along the Ho Chi Minh Trail; supporting ground units locked in combat; providing vital aerial intelligence; and, transporting men and supplies to battle areas. Theirs were dangerous missions, flown in the valley of the shadow of death, yet they undertook their tasks with courage and determination. These same attributes also characterized another large group of MIA's and POW's—the men who performed reconnaissance work, manned remote outposts, and provided early warning for U.S. forces in Vietnam. Like the airmen, the very isolation of these men from the main body of troops they were protecting largely contributed to their missing status. Through their sacrifice the men in rear areas were protected. Still other MIA's and POW's were lost in the confusion of pitched battle, or in enduring extreme hardships of captivity.

It would seem correct, then, to pay tribute to all those Americans who served their country in Indochina but who failed to return and whose fate is unknown. Theirs was not the task to determine the political and military conditions under which the struggle in Southeast Asia would be waged; rather, it was their often thankless task to give of their youth in sweat and blood. They answered the call to fight in a difficult and unpopular war in a distant land. They fought with honor and with pride, hoping that through it all they might make possible for others the way of life with which they were familiar and which they loved. In so doing, this report concludes, they paid the ultimate price in the service of their country.

The unrecovered dead from earlier American wars are commemorated by monuments in foreign countries where they fought and were lost. Two such monuments also exist in the United States, one on the East coast, another on the West.

It is the final recommendation of this report that a memorial be erected on the grounds of Arlington National Cemetery, and that, after an accounting has been achieved, the name of each man who never returned from that war in Southeast Asia be inscribed thereon, and that appearing above the names be written:

> IN GRATEFUL REMEMBERANCE OF THOSE WHO GAVE THEIR LIVES IN THE SERVICE OF THEIR COUNTRY AND WHO SLEEP IN UNKNOWN GRAVES.
>
> THIS IS THEIR MEMORIAL—THE WHOLE EARTH IS THEIR SEPULCHRE.

APPENDIX I

The following list was provided to the Select Committee in Hanoi in December 1975. The list was described by the Vietnamese as the Joint Economic Commission report, comprised of a 1-year and a 5-year plan for reconstruction aid for the Democratic Republic of Vietnam.

FIRST YEAR PROGRAM FOR RECONSTRUCTION AND HEALING THE WOUNDS OF WAR

SHELTER AND MAINTENANCE OF LIVING CONDITIONS

—Prefabricated housing, including sanitary porcelain, 150,000–200,000 square meters.
—Prefabricated ware houses, 500,000 square meters.
—Corrugated galvanized steel sheets, 20,000 metric tons.
—Timber, 400,000 cubic meters.
—Plywood, 50,000 cubic meters.
—Steel-building, shaped and plate, 200,000 metric tons.
—Rayon and stable fibers, 2,000 metric tons.
—Cloth, 40 million meters.
—Pharmaceutical raw materials, $2 million.
—Working tools, $3 million.

AGRICULTURE

—Crawler tractors: 100 HP, 500 ea.; 75 HP, 500 ea.
—Wheel tractors: 50 HP, 500 ea.; 20 HP, 500 ea.
—Bulldozers: 140 HP, 250–500 ea.; 75 HP, 200 ea.
—Scrapers, 100 HP, 100 ea.
—Excavators, 0.3–0.65 cubic meter, 100 ea.
—Implements for tractors:
    Clearing rackers for 100 HP crawler tractors, 100 ea.
    Rock buckets for 100 HP crawler tractors, 100 ea.
    Stacker buckets for 75 HP crawler tractors, 100 ea.
    Rippers for 100 HP crawler tractors, 100 ea.
    Gravel buckets for 50 HP wheel tractors, 100 ea.
    Ploughs, harrows, cultivators, and canal diggers for tractors.
—Repair plants for tractors, three (3).
—Mobile repair vans, 50 ea.
—Equipment for irrigation construction teams, 3 teams.
—Suction dredgers, 250 cubic meters per hour, 10 ea.
—Fertilizer: Urea, 200,000 metric tons, potash, 100,000 metric tons.
—Tinplate, 10,000 metric tons.
—Yarn, Polyamid for fishnets, 1,000 metric tons.
—Fishing vessels, 20,000 HP.

GENERAL RECONSTRUCTION

Infrastructure

—Port, floating, capacity 2 million metric tons per year.
—Crane, floating, capacity 300 metric tons.
—Cranes, port, 2 ea. with capacity 10 to 15 metric tons.
—Equipment, port construction teams, 2 teams.
—Dredgers, suction, 2 ea., capacity 2,500 cubic meters per hour.
—Dredgers, suction, 5 ea., capacity 500 cubic meters per hour.
—Piles, steel—steel tube, 20,000 metric tons.
—Barges, capacity 600 metric tons, total capacity 50,000–100,000 metric tons.
—Tugs, 25–50 ea., 360 HP type.
—Excavators, 5 ea., capacity over 4 cubic meters.
—Trucks, 20 ea., capacity 25 tons.
—Trucks (dump), 500 ea., 5–6 ton capacity.
—Trucks, 50 ea., 10–15 ton capacity.
—Trucks, refrigerator, 50 ea., 5–10 ton capacity.
—Equipment, roadbuilding teams, 10 teams.
—Flange girders, bridge, 10,000 metric tons.
—Locomotives, diesel, 10 ea., 2,000–3,000 HP.
—Freight cars, 250–500 ea.
—Equipment, railroad construction teams, 2 teams.
—Cranes, truck, 100 ea., 6–15–25 ton capacity.
—Rail, complete with steel sleepers, 10,000 metric tons.
—Pile hammers, diesel, 10 ea., 6–15 ton ram weight.
—Drills, one with capacity to drill to 5,000 meters.
—Machines, apparatus or equipment, including electrical manufacturing equipment for industry, research and experimental use, $20 million.
—Cargo vessels, 50,000 tons.

Raw materials

—Chemicals, industrial, $10 million.
—Rubber, synthetic, 15,000 metric tons.
—Caustic soda, 10,000 metric tons.
—Steel, machine, 10,000 metric tons.
—Steel, alloy, 5,000 metric tons.
—Copper, 2,500 metric tons.
—Aluminum, 20,000 metric tons.
—Cable, telephone, 500km.
—Paper, 10,000 metric tons.
—Canvas, 3 million meters.
—Cable, copper, high tension, 3,000 metric tons.
—Coal, coking, 50,000 metric tons.
—Tire cord and fabric, 1 million meters.

Feasibility and Engineering Studies, $10 million

GENERAL RECONSTRUCTION

—An amount of approximately 15 percent of the United States total contribution (attributed to local costs incurred by the Democratic

Republic of Viet-Nam in the use of U.S. contributed commodities and equipment for reconstruction) will be used by the DRVN for the procurement of goods and services from third countries.

List of Commodities in the Program for the Use of the United States Contribution Under Non-Repayable Form for the Five Year Period 1973–1978

A. FOOD, FOOD PROCESSING AND AGRICULTURE

—Food processing plants for livestock. Five, output per unit—10 tons per day.
—Nitrogenous fertilizer plant, output 1,000 tons NH^3 per day.
—Crawler tractors: 100 HP, 3,000 ea.; 75 HP, 5,000 ea.
—Wheel tractors: 50 HP, 5,000 ea.; 20 HP, 2,000 ea.
—Bulldozers: 140 HP, 1,000 ea.; 75 HP, 800 ea.
—Scrapers, 100 HP, 200 ea.
—Excavators, 0.3–0.65 cubic meter, 500 ea.
—Implements for tractors:
  Clearing rackers for 100 HP crawler tractors, 500 ea.
  Rock buckets for 100 HP crawler tractors, 500 ea.
  Stacker buckets for 75 HP crawler tractors, 800 ea.
  Rippers for 100 HP crawler tractors, 800 ea.
  Gravel buckets for 50 HP wheel tractors, 500 ea.
  Ploughs, harrows, cultivators, and canal diggers for tractors.
—Repair plants for tractors, fifteen (15).
—Mobile repair vans, 100 ea.
—Equipment for irrigation construction teams, 10 teams.
—Suction dredgers, 250 cubic meters per hour, 20 ea.
—Equipment for three agricultural colleges and six agricultural research institutes.
—Fertilizer: Urea, 750,000 metric tons; potash, 250,000 metric tons.
—Tinplate, 50,000 metric tons.
—Metal wrapping paper plant, annual capacity 3,000 metric tons.
—Fishing vessels, totaling 100,000 HP.
—Refrigerator ships, five of approximately 2,500 tons.
—Yarn, polyamid for fishnets, 5,000 metric tons.

B. SHELTER AND BUILDING CONSTRUCTION

—Prefabricated housing, including sanitary porcelain, 700,000 square meters.
—Prefabricated warehouses, 800,000 square meters.
—Corrugated galvanized steel sheets, 50,000 metric tons.
—Timber, 1,000,000 cubic meters.
—Plywood, 100,000 cubic meters.
—Steel-building, shaped and plate, 1,500,000 metric tons.
—Prefabricated housing plants, Four with annual output 1,000 apartments each.
—Plumbing fixtures and accessories plant, annual output 5,000 metric tons.
—Sanitary porcelain wares plant, annual output 5,000 metric tons.
—Cement plants, two with annual output per plant 1.2 million metric tons.

—Sheet glass plant, annual output 10 million square meters.
—Chipboard plants, five, annual output per plant 20,000 cubic meters, including glue manufacturing facilities.
—Synthetic paint plant, annual output 10,000 metric tons.
—Leatherette plant, annual output 5 million square meters.
—Working tools, $10 million.

C. CLOTHING: YARNS, CLOTH AND LEATHER

—Rayon and stable fibers, 10,000 metric tons.
—Polyamid yarn, 1,000 metric tons.
—Cloth, 100 million meters.
—Textile mill, annual output 30,000 tons of yarn and 100 million meters of cloth.
—Knitwear factory, annual output 3,000 metric tons.
—Leather, 2 million square feet.
—Canvas, 5 million meters.

D. GENERAL RECONSTRUCTION

—An amount of approximately fifteen percent of the United States total contribution (attributed to local costs incurred by the Democratic Republic of Viet-Nam in the use of United States contributed commodities and equipment for reconstruction) will be used by the DRVN for the procurement of goods and services from third countries.

E. ENERGY

—Thermal power station, 1,200 MW capacity complete with substations and 400 km of transmission line.
—High tension electrical equipment plant, annual output 3,000 metric tons.
—Oil storage, 150,000 cubic meters.
—Drills, two with capacity to drill over 5,000 meters deep.
—Cable, copper, high tension, 10,000 metric tons.

F. PORT RECONSTRUCTION AND WATER TRANSPORT

—Floating dock, repair, of over 10,000 ton capacity.
—Port, floating, capacity 1 million metric tons per year.
—Port, floating, capacity 2 million metric tons per year.
—Crane, floating, capacity 300 metric tons.
—Cranes, port, 15 ea. with capacity 10 to 15 metric tons.
—Equipment, port construction teams, 6 teams.
—Dredgers, suction, 4 ea., capacity 2,500 cubic meters per hour.
—Dredgers, suction, 10 ea., capacity 500 cubic meters per hour.
—Piles, steel—steel tube, 50,000 metric tons.
—Barges, capacity 600 metric tons, total capacity 150,000 metric tons.
—Tugs, 100 ea., 360 HP type.
—Vessels, ocean-going, total capacity 400,000 metric tons.

G. ROAD AND RAIL TRANSPORTATION

Roads

—Excavators, 15 ea., capacity 4 cubic meters upwards.
—Trucks, 100 ea., capacity 25 tons.

—Trucks, dump, 5,000 ea., 5–6 ton capacity.
—Trucks, 250 ea., 10–15 ton capacity.
—Trucks, refrigerator, 100 ea., 5–10 ton capacity.
—Equipment, roadbuilding teams, 30 teams.
—Flange girders, bridge, 60–160 meters long, 20,000 metric tons.

Rail

—Locomotives, diesel, 50 ea., 2,000–3,000 HP.
—Freight cars, 1,000 ea.
—Freight cars, specialized—refrigerator, 50 ea., cement carriers, 20 ea., multi-axle, 10 ea.
—Equipment, railroad construction teams, 5 teams.
—Equipment, tunnel construction teams, 2 teams.
—Cranes, truck, 500 ea., 6–15–25 ton capacity.
—Rail, complete with steel sleepers, 70,000 metric tons.
—Girders, bridge, 1,500 meters, including girders of over 160 meters long each and other steel bridge parts.
—Pile hammers, diesel, 20 ea., 6–15 ton ram weight.

H. INDUSTRIAL COMMODITIES AND EQUIPMENT

—Chemicals, industrial, $50 million.
—Rubber, synthetic, 50,000 metric tons.
—Caustic soda, 50,000 metric tons.
—Steel, machine, 60,000 metric tons.
—Steel, alloy 30,000 metric tons.
—Copper, 10,000 metric tons.
—Aluminum, 60,000 metric tons.
—Cable, telephone, 1,000 km.
—Paper, 50,000 metric tons.
—Pharmaceutical raw materials, $10 million.
—Machines, apparatus or equipment, including electrical manufacturing equipment for industry, research and experimental use, $100 million.
—Steel mill, annual output 1 million tons.
—Coal, coking, 1.5 million metric tons.
—Tire cord and fabric, 5 million meters.

I. FEASIBILITY AND ENGINEERING STUDIES AND PURCHASE OF INDUSTRIAL PROCESS LICENSES AND KNOW-HOW.

ADDITIONAL VIEWS OF CONGRESSMAN JOHN JOSEPH MOAKLEY

I wish to commend the members and the staff of the select committee for their work and deep concern over the questions of persons missing in Southeast Asia. In particular, I wish to express my admiration for the tireless efforts of our distinguished chairman.

The report is an excellent one. It represents countless hours of work and is an extraordinarily valuable contribution to the most important remaining question from our involvement in Indochina.

Nevertheless, I feel compelled to express a few thoughts of my own on the subjects addressed in this report.

FATE OF THE MISSING

To the extent that the report can be read as implying that the committee has concluded that no Americans are alive in Indochina, I would express a more cautious view.

While it was one of the prime questions the committee was ordered to investigate by H. Res. 335, we have found no evidence to support either the contention that all the missing are dead nor that they are alive.

I do not believe that this report intends to argue for an assumption that there are no Americans alive in Indochina. Certainly, as an individual, I do not expect anyone to come home alive; the preponderance of statistical evidence is that no one will. But we have no evidence, as a committee, to reach any conclusion on the matter.

STATUS REVIEWS

No subject discussed in the report is likely to generate more controversy than the suggestion that the service secretaries proceed with case reviews of those still classified as POW's or MIA's. I strongly object to the inclusion of this recommendation in the final report of the committee. The report states that "the committee felt obliged to assess the financial impact of status changes . . ."

While H. Res. 335 might be read to give the committee authority to report on this matter, I wish to state as clearly as possible my impression, as floor manager of the resolution, that it neither obliges or even authorizes the committee to deal with the issue of status reviews. Under the rules of the House, the matter rests within the exclusive jurisdiction of the Committee on Armed Services, as a legislative issue.

The matter of status reviews is an administrative decision under current law. It is my hope that President Carter will act with extreme caution in this area and that any undertaking of this kind will be dealt with in the full context of the administration's diplomatic goals and the perception of possible success of direct negotiations on the question of accounting.

ACCOUNTING

I would agree with the report that a full and satisfactory accounting can never be obtained. The circumstances and information on the incident of loss, in many cases, is not adequate to offer much hope for a final resolution. But, with some caution, I would express more optimism regarding the chances for successful direct negotiations—at least with the Vietnamese.

I entered upon the work of the committee with little hope for any improvement in the attitude of Hanoi. But it has become clear during the course of the committee's work, that Vietnam is dependent on our goodwill—or at least a less hostile attitude—for many of their most vital concerns. This would include currency exchange, trade, membership in development banks and, of course, UN membership. I am aware of nothing other than an accounting that the United States needs or wants from Indochina.

I think the Carter administration can approach this issue with high hopes if it will recognize the extent to which the United States has the upper hand in negotiations. This is a realization which has persistently escaped Secretary Kissinger. There is substantial reason to believe that then President Richard M. Nixon, in a letter to Hanoi, named a specific dollar amount of reparations which would be paid after the war as ransom for information on the missing. The committee made two efforts to see this letter and was rebuffed both times by officials who invoked "executive privilege." This doctrine, espoused by President Nixon so often during Watergate, relates to the alleged constitutional right of the executive branch to withhold from Congress anything it considers embarrassing.

I am concerned by the tenor of the report in significantly discounting the role of this blunder in our problems today. The committee's charitable assessment rests solely on assertions by those who refused to show us the letter. Based on the maxim expressed by a former Attorney General ("Watch what we do, not what we say."), I think a little more skepticism is in order in writing a final assessment of the role of the Nixon-Kissinger secret diplomacy in producing the stalemate in which we now find ourselves.

SUMMARY

On the whole, I consider the record of the committee and the accompanying report to be outstanding. I wish to make clear that I have signed the report. Certainly, in a document this size, there is no chance of complete unanimity but my differences with the report are largely matters of tone which are made clear in these views. And it is in the context of these views that I hope my signature on the accompanying report will be interpreted.

John Joseph Moakley

JOHN JOSEPH MOAKLEY, M.C.

SEPARATE VIEWS OF CONGRESSMEN BENJAMIN A. GILMAN, AND TENNYSON GUYER

Introduction

Our mutual concern that certain conclusions and recommendations in the final report may serve to reduce the momentum attained by the select committee prevent us from rendering an unqualified endorsement of what is otherwise a comprehensive and meaningful report. We also perceive a need to emphasize areas of common agreement, and have therefore elected to articulate our views in a separate statement which follows.

When the House of Representatives mandated this committee to study and investigate the problem of American servicemen and civilians missing in Southeast Asia, the POW/MIA issue was not receiving the attention it either deserved or needed. The select committee was faced with the task of removing the issue from the back burner, and of initiating programs to determine what happened to these missing men.

Under the stellar leadership of Chairman Gillespie V. Montgomery (D-Miss.), whose devotion to the POW/MIA issue dates back many years, the committee focused world attention on America's missing men and helped to raise the public consciousness on this humanitarian endeavor. The committee also broke the stalemate on obtaining an accounting by prompting direct talks between the governments of Laos and Vietnam and the government of the United States, and by obtaining remains and information on some of our missing. In addition, the select committee has produced an informative and meaningful report of all accumulative evidence for congressional and public consideration. These accomplishments are a tribute to the exceptional efforts and talents of the chairman and members of the select committee, and to the diligent work and support of the committee staff.

There are certain conclusions and recommendations, however, with which we respectfully disagree and herein voice our separate views and opposition. These exceptions center on our fear that those conclusions could prejudice the possibility of obtaining an accounting for our missing men.

First, we disagree with the conclusion stating that "the governments of Indochina may be capable of returning the remains of more than 150 Americans." To assign any numerical limitation to the amount of information or remains which the governments of Indochina possess is premature and unwarranted speculation on the part of the committee. To limit arbitrarily the amount and type of information we demand could result in discouraging Hanoi, Vientiane, and Phom Penh, from providing all the information they have available. We believe the governments of Indochina, even though there are many men for whom they could never account, are already in possession of a substantial body of information on our missing men. We should not inhibit a full revelation of that information by assigning any numerical limitation to the fullest possible accounting which we all seek.

Second, we disagree with the recommendation that the moratorium on individual case reviews by the military secretaries be lifted. Until the United States has received a full and satisfactory accounting from the governments of Vietnam, Laos, and Cambodia, the moratorium on case reviews should be continued. Despite the fact that there is no historic correlation between a missing man's status and the willingness of the Southeast Asian Communist governments to return remains, a case-by-case review by the military could result in a very small number of men remaining in a POW or MIA status. Such a result, we believe, would render an eventual accounting for the missing men highly nebulous and uncertain, reducing the pressure on the administration to further pursue the issue. We believe that individual case reviews would generally result in reduced congressional and administration concern for those who gave so much for their country, thereby weakening the American negotiating position.

A third area of our concern is that early termination of the select committee would deemphasize the importance of the POW/MIA issue. When the select committee submits its final report, in all probability there will be a tendency to neglect the POW/MIA problem. We therefore feel the committee should continue its work, at least until further progress in negotiations has been achieved and a reasonable accounting has begun. The select committee has created considerable momentum toward resolving the POW/MIA issue. This momentum should not now be allowed to dissipate. In addition, we believe the select committee is needed to oversee the work of the intelligence agencies. While these agencies have done an outstanding job of collecting, analyzing, and evaluating information, they have not exhibited sufficient initiative in acquiring POW/MIA information, so an oversight function must be exercised. If it is not possible to continue the select committee, we urge that a Presidential task force be established promptly, to continue the initiatives needed to bring about a satisfactory conclusion of this issue.

A fourth area of our concern is that the administration should take prompt and appropriate steps to guarantee the most favorable atmosphere and opportunity for an accounting. The League of Families bumper sticker, stating "Only Hanoi Knows," is an accurate portrayal of the status of POW/MIA information. Hanoi, and the other governments of Indochina, have the responsibility to provide the information they have available. The U.S. Government has the responsibility to do whatever it reasonably can to pry such information from the Indochinese governments. To facilitate the transfer of this information we believe some constructive and positive gesture should be made by the United States. During the enunciation of his Pacific Doctrine, President Ford stated that "the United States is prepared to look to the future rather than the past in its dealings with the governments of Indochina." He told the select committee that he was prepared to reciprocate acts of good will, particularly in relation to resolving the POW/MIA issue. We believe that a positive gesture on the part of the United States would help to bridge the vast gap that still exists between the United States and Vietnam, and would help to expedite the further disclosure of POW/MIA information.

Finally, we believe the committee should not consider that all POW/MIA's are dead until the United States has received as full and exhaustive an accounting as is possible. Until the Government has taken every reasonable step to obtain an accounting, and until the Governments of Indochina have provided all information on and remains of our missing men, there is no justification for erecting a POW/MIA tombstone.

Benjamin A. Gilman

Benjamin A. Gilman, M.C.

Tennyson Guyer

Tennyson Guyer, M.C.

GLOSSARY OF TERMS AND ABBREVIATIONS

AAA—Antiaircraft Artillery (sometimes AA: antiaircraft).
APC—Armored Personnel Carrier.
AID—Agency for International Development.
ARVN—Army of the Republic of Vietnam.
ASD/ISA—Assistant Secretary of Defense/International Security Affairs.
ASGRO—Armed Services Graves Registration Office.
Authenticator—Personal data used to identify downed airmen through voice-radio communications; consists of family names, favoriate athletic teams, vehicles, etc. Designated before entry into combat and available to search and rescue forces. These data remain classified.
BNR—Body not recovered, usually used in conjunction with casualties killed in action (KIA) such as KIA–BNR.
CACO—Casualty Assistance Contact Officer.
CAO—Casualty Assistance Officer.
CFNC—National Communist Front of Cambodia or the Khmer Rouge (KR).
CIA—Central Intelligence Agency.
CIL-Thai—Central Identification Laboratory originally activated at Camp Samae San, Thailand in 1973. The Central Identification Laboratory relocated to Hawaii in mid-1976.
DAO—Defense Attaché Office.
DIA—Defense Intelligence Agency.
DIC—Died in captivity (when used in conjunction with casualty data, usually POW–DIC).
Also
DIC—Dependency and Indemnity Compensation (when used in conjunction with dependent survivor benefits).
DRV—Democratic Republic of Vietnam (North Vietnam), used until July 1976 when the North and South united as the Socialist Republic of Vietnam (SRV).
DOD—Department of Defense.
FAC—Forward Air Controller.
Fast FAC—high-speed, fixed-wing, forward air controller.
FBIS—Foreign Broadcast Information Service. U.S. Government publication, compiled daily, of news monitored from foreign countries.
FPJMC—Four Party Joint Military Commission. Established by the Paris Peace Agreement to implement article 8(a), the repatriation of prisoners of war.
FPJMT—Four Party Joint Military Team. Established by the peace agreement to implement article 8b, return of remains and provision of information on the missing.
FUNK—National United Front of Kampuchea.
GCA—Ground Controlled Approach, the method used to guide aircraft for safe landings, particularly in inclement weather.
GVN—Government of Vietnam (South Vietnam).
"Hanoi Hilton"—Hoa Lo prison complex in Hanoi.
ICR—Intelligence Collection Requirement.
ICRC—International Committee of the Red Cross.
IMF—International Monetary Fund.
IPWIC—Interagency Prisoner of War Intelligence Committee.
IR—Intelligence Report.
ISA—International Security Affairs (within DOD).
JCCIA—Joint Central Commission to implement the agreement. Establishing a cease-fire in Laos (February 1973); comprised of representatives of the Pathet Lao and Royal Lao.

JCRC—Joint Casualty Resolution Center.
JCS—Joint Chiefs of Staff.
JPRC—Joint Personnel Recovery Center.
JEC—Joint Economic Commission.
"Jolly Green"—Rescue helicopter.
KR—Khmer Rouge. Indigenous Communist forces in Cambodia.
KIA—Killed in action.
LPF—Lao Patriotic Front. Communist front in Laos.
LPDR—Lao People's Democratic Republic.
MAVC—Military Assistance Command, Vietnam, also USMACV. Headquarters in Saigon until April 1973.
MIA—Missing in action.
NSA—National Security Agency.
NVA—North Vietnamese Army.
NVN—North Vietnam.
OW—Over water, used to describe aircraft losses offshore.
PFOD—Presumptive finding of death.
PRG—Provisional Revolutionary Government; Communist Government of South Vietnam, used nutil July 1976 when the North and South united as the Socialist Republic of Vietnam (SRV).
PL—Pathet Lao. Indigenous Communist forces in Laos.
PNOK—Primary next of kin.
POW—Prisoner of war, also PW.
PRC—People's Republic of China.
PRC-63—USN Survival Radio, 1964–68.
RT-10—USAF Survival Radio, 1964–68.
RVN—Republic of Vietnam. Former Government of Vietnam.
SF—Special Forces.
SAR—Search and rescue.
SBP—Survivor benefit program.
SDU-5c—Emergency stroboscopic light used to facilitate rescue.
SEA—Southeast Asia.
SGLI—Servicemen's Group Life Insurance.
SI—Special intelligence; acquired through sensitive sources, such as communications intercepts, agents, etc.
SRV—Socialist Republic of Vietnam, used since July 1976.
UNC—United Nations Command.
UNHCR—United Nations High Commissioner for Refugees.
URC-64—Survival radio, adopted in 1968. Has 4-band, multichannel capability.
URT-21—Emergency beacons.
URT-27—Emergency beacons.
USA—U.S. Army.
USAF—U.S. Air Force.
USASF—U.S. Army Special Forces.
USCG—U.S. Coast Guard.
USMACV—U.S. Military Assistance Command, Vietnam.
USMC—U.S. Marine Corps.
USN—U.S. Navy.
USSDP—Uniformed services savings deposit program.
VC—Vietcong. Indigenous Communist insurgents in South Vietnam.
WIA—Wounded in action.
VIVA—Voices in vital America; a private, nonprofit organization involved among other things in the POW/MIA bracelet program.

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